

EXHIBIT A

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*Attorneys for Plaintiffs PUBG Corporation and
PUBG Santa Monica, Inc.*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PUBG Corporation and
PUBG Santa Monica, Inc.,

Plaintiffs,

vs.

NetEase, Inc., NetEase Information Technology
Corporation and Hong Kong NetEase Interactive
Entertainment Limited,

Defendants.

Case No. 4:18-cv-02010-JSW

**PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR:**

**1) COPYRIGHT INFRINGEMENT UNDER
17 U.S.C. § 101 *et seq.*;**

**2) TRADE DRESS INFRINGEMENT
UNDER 15 U.S.C. § 1125(a);**

**3) UNFAIR COMPETITION UNDER CAL.
BUS. & PROF. CODE § 17200 *et seq.*;**

**4) UNFAIR COMPETITION UNDER CAL.
COMMON LAW**

DEMAND FOR JURY TRIAL

PLAINTIFFS' SECOND AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT,
TRADE DRESS INFRINGEMENT AND UNFAIR COMPETITION, CASE NO. 4:18-cv-02010-
JSW

1 Plaintiffs PUBG Corporation and PUBG Santa Monica, Inc. (collectively, “PUBG”), by and
2 through their attorneys, for their Second Amended Complaint against Defendants NetEase, Inc.,
3 NetEase Technology Corporation and Hong Kong NetEase Interactive Entertainment Limited
4 (collectively, “NetEase” or “Defendants”) state as follows:

5 INTRODUCTION

6 1. This is an action for copyright infringement under the United States Copyright Act of
7 1976, 17 U.S.C. § 101 *et seq.* (“Copyright Act”); trade dress infringement under the United States
8 Trademark Act of 1946, 15 U.S.C. 1051 *et seq.* (“Lanham Trademark Act”); and unfair business
9 competition under California State Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“California Unfair
10 Competition Law”) and California common law.

11 PARTIES

12 2. Plaintiff PUBG Corporation (“PUBG”) is a corporation organized and existing under
13 the laws of the Republic of Korea, having its principal place of business located at 7F, 8F, 12,
14 Seocho-daero 38-gil, Seocho-gu, Seoul, Republic of Korea.

15 3. Plaintiff PUBG Santa Monica, Inc. (“PUBG America”) is a corporation organized
16 and existing under the laws of the State of Delaware, having its principal place of business located at
17 1223 Wilshire Blvd. Num. 1015, Santa Monica, CA 90403. Plaintiff PUBG America is a wholly-
18 owned subsidiary of Plaintiff PUBG.

19 4. Upon information and belief, Defendant NetEase, Inc. is a corporation organized and
20 existing under the laws of the Cayman Islands, having its principal place of business located at
21 Building No. 7, West Zone, Zhongguancun Software Park (Phase II), No.10 Xibeiwang East Road,
22 Haidian District, Beijing 100193, People’s Republic of China. Upon information and belief,
23 NetEase Inc. is registered to do business in the State of Delaware under its former English name,
24 NetEase.com (U.S.) Inc., and has a registered agent for service of process at The Corporation Trust
25 Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. Upon
26 information and belief, shares of NetEase Inc. have been listed on the NASDAQ Global Select
27 Market since June 30, 2000, under the symbol “NTES,” and NetEase Inc. regularly files reports with

1 the United States Securities and Exchange Commission. Upon information and belief, Defendant
2 NetEase Inc. maintains an Investor Relations contact in New York, New York, in the United States.

3 5. Upon information and belief, Defendant NetEase Information Technology Corp.
4 (“NetEase IT”) is a corporation organized and existing under the laws of California, having its
5 principal place of business located at 2000 Sierra Point Parkway, Suite 800, Brisbane, California
6 94005. Upon information and belief, Defendant NetEase Information Technology, Corp. operates
7 under the name NetEase North America and/or the name NetEase Games. Upon information and
8 belief, Defendant NetEase Information Technology Corp. is a subsidiary of Defendant NetEase Inc.
9 and is an affiliate of Defendant Hong Kong NetEase Interactive Entertainment Limited. Upon
10 information and belief, Defendant NetEase Information Technology Corp.’s registered agent for
11 service process is CT Corporation System (C0168406), 818 West Seventh Street, Suite 930, Los
12 Angeles, CA 90017.

13 6. Upon information and belief, Defendant Hong Kong NetEase Interactive
14 Entertainment Limited (“NetEase Interactive”) is a corporation organized and existing under the
15 laws of Hong Kong, having its principal place of business located at 802 Chuang's Tower, 30-32
16 Connaught Road, Central, Hong Kong. Upon information and belief, Defendant NetEase Interactive
17 operates under the name NetEase North America and/or the name NetEase Games. Upon
18 information and belief, Defendant NetEase Interactive is a subsidiary of Defendant NetEase Inc. and
19 is an affiliate of Defendant NetEase Information Technology Corp.

20 JURISDICTION

21 7. This Court has subject matter jurisdiction over PUBG’s claims for copyright
22 infringement under the Copyright Act pursuant to 17 U.S.C. §§ 101, 501 *et seq.* and 28 U.S.C. §§
23 1331 (federal subject matter jurisdiction) and 1338(a) (any act of Congress relating to copyrights,
24 patents and trademarks).

25 8. This Court has subject matter jurisdiction over PUBG’s claims for trade dress
26 infringement under the Lanham Trademark Act pursuant to 15 U.S.C. 1051 *et seq.* and 28 U.S.C.
27 §§ 1331 and 1338(a).

1 9. This Court has subject matter jurisdiction over PUBG's claims for unfair competition
2 under California Unfair Competition Law pursuant to Cal. Bus. & Prof. Code § 17200 *et seq.* and 28
3 U.S.C. §§ 1338(b) and 1367.

4 10. This Court has personal jurisdiction over Defendant NetEase Inc. because it regularly
5 conducts business in California and in this judicial district, including through its subsidiary,
6 Defendant NetEase IT, and through distribution of its mobile games through the Apple App Store
7 and the Android Google Play distribution network. This Court also has personal jurisdiction over
8 Defendant NetEase Inc. because it has committed acts in California and in this judicial district giving
9 rise to this action. To the extent Defendant NetEase Inc. is found not to be subject to jurisdiction in
10 any state's courts of general jurisdiction, this Court has personal jurisdiction over Defendant
11 NetEase Inc. pursuant to Fed. R. Civ. P. 4(k)(2) because of its extensive contacts with the United
12 States, including the acts giving rise to this action.

13 11. This Court has personal jurisdiction over Defendant NetEase IT because it is
14 incorporated in California, because it has its principal place of business in California and in this
15 judicial district, and because it has committed acts in California and in this judicial district giving
16 rise to this action.

17 12. This Court has personal jurisdiction over Defendant NetEase Interactive because it
18 regularly conducts business in California and in this judicial district and through distribution of its
19 mobile games through the Apple App Store and the Android Google Play distribution network. This
20 Court also has personal jurisdiction over Defendant NetEase Interactive because it has committed
21 acts in California and in this judicial district giving rise to this action. To the extent Defendant
22 NetEase Interactive is found not to be subject to jurisdiction in any state's courts of general
23 jurisdiction, this Court has personal jurisdiction over Defendant NetEase Interactive pursuant to Fed.
24 R. Civ. P. 4(k)(2) because of its extensive contacts with the United States, including the acts giving
25 rise to this action.

26 13. Defendants are subject to both specific and general personal jurisdiction. Defendants
27 market, monetize, and support the derivative works described below throughout the United States by
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1 means of the Apple App Store and Android Google Play distribution network. Further, on
 2 information and belief, Defendants regularly solicit and conduct business in and/or derive substantial
 3 revenue from goods and services provided to residents of California. Accordingly, both jurisdiction
 4 and venue are proper in this court. 28 U.S.C. §§ 1391 and 1400.

5 **VENUE**

6 14. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and
 7 pursuant to 28 U.S.C. § 1400(a), because a substantial part of the events giving rise to this action
 8 occurred in this judicial district, because Defendants are subject to this Court's personal jurisdiction
 9 with respect to this action, and because all Defendants reside either within this judicial district or
 10 outside of the United States.

11 **INTRADISTRICT ASSIGNMENT**

12 15. Pursuant to Civil L. R. 3-2(c), this action is excluded from the Court's division-
 13 specific venue rule and will be assigned on a district-wide basis because it is an Intellectual Property
 14 case.

15 **FACTUAL BACKGROUND**

16 **Brendan Greene and the BATTLEGROUND'S Game**

17 16. Brendan Greene is a widely-recognized video game developer. Mr. Greene is well
 18 known as "PlayerUnknown," which is a screen name he used while playing and developing games.

19 17. In or about March 2016, Bluehole Ginno Games, Inc. ("Bluehole Ginno") hired Mr.
 20 Greene to develop a computer game, which ultimately was named PLAYERUNKNOWN'S
 21 BATTLEGROUND'S. On or about September 14, 2017, Plaintiff PUBG USA was formed as a
 22 wholly-owned subsidiary of Bluehole Ginno, to support the community of players and fans of
 23 PLAYERUNKNOWN'S BATTLEGROUND'S in the United States, including by promoting
 24 tournaments and interacting with players and streamers. On or about September 29, 2017, Bluehole
 25 Ginno was renamed PUBG Corp., and Plaintiff PUBG is the successor-in-interest to Bluehole Ginno
 26 with respect to PLAYERUNKNOWN'S BATTLEGROUND'S.

27 18. PLAYERUNKNOWN'S BATTLEGROUND'S ("BATTLEGROUND'S") was
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1 developed as a computer video game for personal computers (“PCs”) running the Windows
2 operating system. In early 2017, BATTLEGROUNDS was made accessible to limited groups of
3 players during closed alpha and beta testing and development periods. On or about March 23, 2017,
4 an early-access beta version of BATTLEGROUNDS was made publicly available through Steam, an
5 online computer game distribution site. On or about December 20, 2017, PUBG released version 1.0
6 of BATTLEGROUNDS. PUBG has continued to expend considerable time, money and resources in
7 further development and promotion of BATTLEGROUNDS, and in fostering the
8 BATTLEGROUNDS community.

9 19. Additionally, PUBG has developed and is continuing to develop versions of
10 BATTLEGROUNDS for platforms other than PCs running the Windows operating system. For
11 example, a licensed version of BATTLEGROUNDS for the Xbox gaming system was released on or
12 about December 12, 2017. As another example, PUBG is working with a third party to develop and
13 release mobile versions of BATTLEGROUNDS for the iOS and Android platforms. These mobile
14 versions are currently in beta testing and were recently publicly released.

15 20. Bluehole Ginno and PUBG expended significant time, money, and other resources to
16 develop BATTLEGROUNDS. In early 2016, a team of about 35 developers was supporting this
17 project, and by June 2017 the team had expanded to about 70 developers.

18 21. BATTLEGROUNDS became an instant hit and has achieved high levels of success in
19 the computer gaming and console gaming industry. When the early-access public beta version of
20 BATTLEGROUNDS was released in March 2017, it sold a million copies in less than a month and
21 reached the million-copies mark faster than any other game ever sold on the Steam distribution
22 platform. By July 2017, BATTLEGROUNDS had achieved over one hundred million dollars in
23 sales. By September 2017, over ten million copies of BATTLEGROUNDS had been sold. In
24 September 2017, BATTLEGROUNDS broke an all-time Steam record by having 1.35 million
25 concurrent players (*i.e.*, players playing at the same time). In December 2017, BATTLEGROUNDS
26 reached 3 million concurrent players.

27 22. To date, over twenty-eight million copies of the PC version of BATTLEGROUNDS,
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1 and over four million copies of the Xbox version of BATTLEGROUND have been sold.
 2 Additionally, real-world and online BATTLEGROUND tournaments take place on a regular basis,
 3 with tens of thousands of participants, attendees, and viewers.

4 **Copyrightable Audiovisual Subject Matter in BATTLEGROUND**

5 23. BATTLEGROUND is an original work of creative expression that provides
 6 interactive audiovisual entertainment to players. BATTLEGROUND contains numerous unique,
 7 creative audio and visual elements, including numerous individual works of creative expression that
 8 each individually constitute copyrightable subject matter. Further, the selection and arrangement of
 9 individual audio and visual elements in BATTLEGROUND constitutes copyrightable subject
 10 matter. In addition, the total look and feel of BATTLEGROUND constitutes copyrightable subject
 11 matter.

12 24. BATTLEGROUND is an original work of authorship and, its audio-visual aspects
 13 constitute copyrightable subject matter under the copyright laws of the United States. Plaintiff
 14 PUBG owns, and at all relevant times and including through its predecessor Bluehole Ginno has
 15 owned, the copyrights in BATTLEGROUND and has complied with all statutory requirements in
 16 securing a federal copyright registration for this work. Applications to register Plaintiff PUBG's
 17 copyrights in the audio-visual aspects of the early-access public beta and subsequent versions of
 18 BATTLEGROUND for PC were filed on March 30, 2018.¹

19 25. The copyrightable audiovisual aspects of the PC version of BATTLEGROUND²
 20 include individual and collective creative and artistic expressions within the game, including but not

21 _____
 22 ¹ Case Nos. 1-6444365542 and 1-6444329777 (Registration Nos. PA0002097453 and
 TX0008524041, respectively) (for PLAYERUNKNOWN'S BATTLEGROUND (Version 2.6)),
 23 and Case Nos. 1-6444365308 and 1-6444027916 (Registration Nos. PA0002097065 and
 TX0008524047, respectively) (for PLAYERUNKNOWN'S BATTLEGROUND (Version 2.1)).

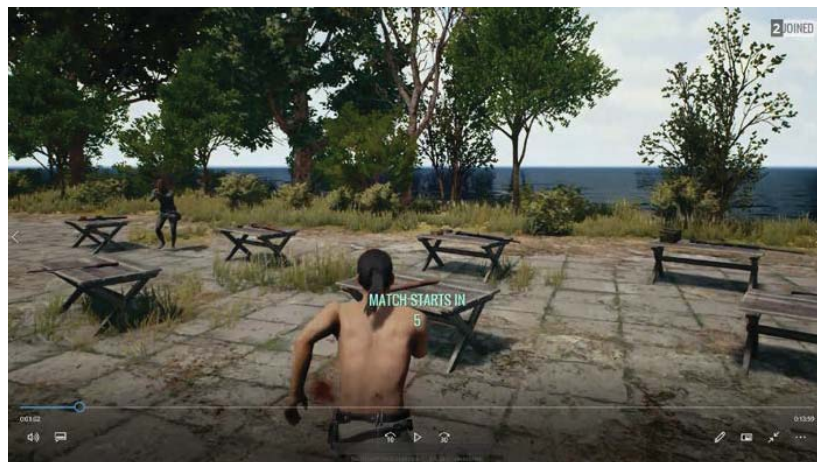
24 ² The current PC version of *BATTLEGROUND* differs from the early-access public beta version for
 PC in certain respects but generally provides the same or similar game play experience and the
 25 elements depicted here appear in both. The early-access Xbox version of *BATTLEGROUND* and
 the closed beta development mobile versions of *BATTLEGROUND* also vary in certain aspects but
 26 generally provide the same or similar game play experience as the PC versions. The elements
 depicted here also appear in the Xbox version of *BATTLEGROUND*. Hereafter,
 27 "*BATTLEGROUND*" refers to the first early-access public beta version for PC and subsequent
 28 versions that are the subject of the copyright registration applications.

1 limited to the following audio/visual/audiovisual/gameplay arrangement and look and feel.

2 26. **Pre-Game Lobby and Waiting Area.** Each game of BATTLEGROUND begins
3 with all of the players entering from a “lobby” to a designated waiting area on the play map.
4 Typically, players wait in a lobby, where they can potentially chat, but not physically (in the virtual
5 world) interact with each other or the game play environment. BATTLEGROUND provides a
6 waiting area located within the game play map to allow the players to interact with each other and
7 the game play area. Weapons such as hand-held melee weapons (*e.g.*, machete, crowbar, and the
8 iconic frying pan), grenades, hand guns, shot guns, and various types of rifles and machine guns are
9 available for players to explore and experience without inflicting damage.




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17 The players are able to talk to and interact with each other, practice firing their weapons, and roam
18 around the scene. The players remain in this interactive pre-game waiting area until enough players
19 have connected to the game for competitive gameplay to begin.



1 The pre-game waiting area creatively provides the players with an interactive audiovisual
2 experience, allowing them to engage with each other and explore the environment and weapons of
3 the game before competitive gameplay begins. This lower-pressure, slower-paced illustration of
4 objects, scenes, and actions is an artistic presentation that allows players to experience and
5 appreciate these aspects of the animated fantasy world differently than they do during tense
6 competitive gameplay. The creative expression of a pre-game lobby and interactive waiting area in
7 BATTLEGROUND is a copyrightable audio-visual work, individually and/or in combination with
8 other elements of BATTLEGROUND. Additionally, this creative expression of the pre-game
9 lobby and interactive waiting area has taken on secondary meaning as an emblem of
10 BATTLEGROUND and of PUBG. For example, it has been the subject of a live-action
11 BATTLEGROUND parody skit, available at
12 [https://www.youtube.com/watch?v=cPGLLZu5lz4&list=PLSMETuURtTXCngmWf_wUWfnzTjn0](https://www.youtube.com/watch?v=cPGLLZu5lz4&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=10)
13 [4XF-B&index=10](https://www.youtube.com/watch?v=cPGLLZu5lz4&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=10).
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16 27. **Air Jump.** When a sufficient number of players have connected to the game
17 (typically, 100 players), the players are transported to an aircraft. In other shooter games, players
18 “spawn” or just appear on the game play map in either a pre-designated or random location. Rather
19 than the typical spawning mechanic, BATTLEGROUND has created an interactive approach which
20 allows the player to choose where to begin play on the game play map.
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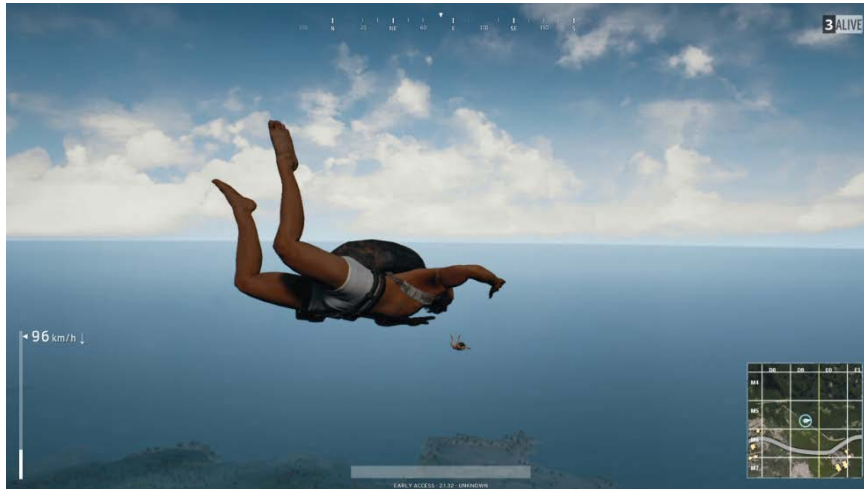


As the aircraft flies over a game play map, the player can watch the aircraft and the game play map terrain underneath. The route of the aircraft is randomized for each game. The route can be seen on a mini-map embedded within a corner of the game play screen as well as a map screen showing the entire island in which the plane is indicated by a  symbol.



Each player can choose to jump out of the aircraft anywhere along the route of the aircraft. The time at which a player chooses to jump affects the player's experience in dropping down to ground level which, in turn, affects the location where the player will land. During the jump, the player can choose to free fall and guide him/herself towards different areas of the play map. During free fall, the player has a bird's eye panoramic view of the play map and can view other players as they also descend to Earth.





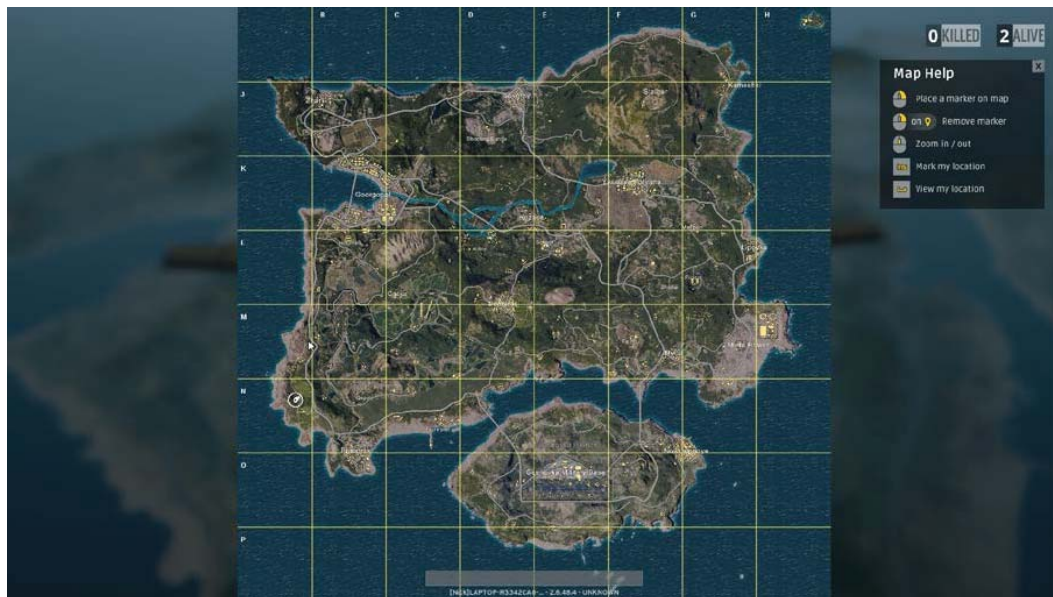
At any time before reaching a critical low altitude, the player can open his/her parachute and glide down to a landing.



The Air Drop experience in BATTLEGROUNDS is a creative artistic experience created by PUBG. This aspect of the game artistically presents the fantasy world of BATTLEGROUNDS through unusual and varied angles of perspective and movement. It provides the player with a dynamic and interactive game-starting and location-selecting experience, in contrast to conventional shooter games in which characters spawn in pre-determined or random locations. Additionally, the player experiences an audiovisual representation of free-falling to earth while surveying the game play terrain and other players in freefall and while parachuting to earth—an unprecedented experience in shooter games. This creative and interactive expression of the introduction to a game play map

expresses a narrative fantasy through creative images and sounds. The Air Jump is a copyrightable audio-visual work, individually and/or in combination with other elements of BATTLEGROUNDS. Additionally, this creative expression of the Air Jump has taken on secondary meaning as an emblem of BATTLEGROUNDS and of PUBG. For example, it has been featured in live-action BATTLEGROUNDS parody skits, such as those available at <https://www.youtube.com/watch?v=4hqqFqcr1K8> and https://www.youtube.com/watch?v=cPGLLZu5lz4&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=10.

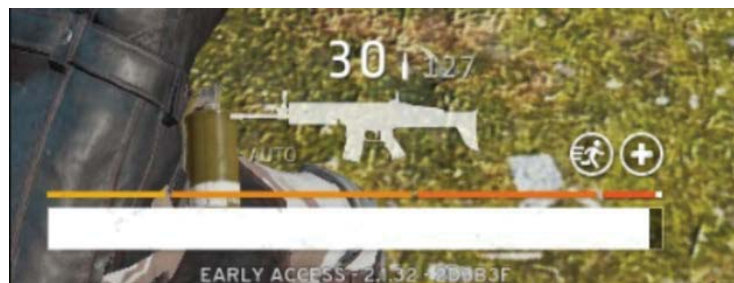
28. **Play Map.** While many shooter games have a game play map, each game play map is unique. Similarly, PUBG created a unique game play map, as shown below, which is much larger than previous shooter games. The player's decision when to jump from the aircraft and to freefall to a particular location on the game play map may also depend upon the actual game play map. BATTLEGROUNDS uses a single game play map entitled "Erangel."



As shown, above, Erangel is a large island with a secondary island connected by bridges and a smaller third island (top right corner) that is not connected to the main island. The islands are populated with different types of game play areas and terrains, such as towns, a military base, a port,

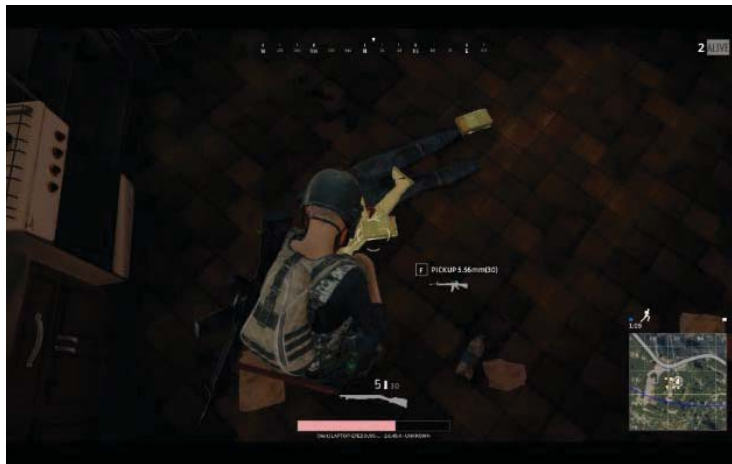
1 farms, a lighthouse, various buildings, canals, roads, open space and thousands of other unique
 2 elements. Plaintiff PUBG created Erangel, including the types and locations of game play areas, and
 3 the designs of the terrain and buildings, to give players a unique visual gameplay experience, as well
 4 as a diversity of areas for game play. The Play Map, a unique and creative expression of a game
 5 play map, is a copyrightable visual and/or audio-visual work, individually and/or in combination
 6 with other elements of BATTLEGROUNDS.

7 29. **Character Attributes.** While many shooter games display attributes of a player,
 8 BATTLEGROUNDS include unique and creative expressions of certain types of attributes created
 9 by PUBG. Each player has a set of attributes, such as health and speed. All characters possess the
 10 same set of attributes. During gameplay, a health bar is displayed. A unique expression of health
 11 and abilities in BATTLEGROUNDS is the display of a “boost” bar. Initially, players start with zero
 12 boost. Certain items, explained with regard to consumables, below, can increase a player’s boost
 13 level. Depending upon the amount of boosting, the player’s health is increased at different rates over
 14 time. At higher levels of boost, the player also receives an increase in speed.



1 The “boost” factor is unique to BATTLEGROUNDS, created to provide an additional dimension to
 2 the typical health/hit points attributes used in prior games. These and other creative expressions of
 3 the unique attributes, especially the effects of the level of boost, are copyrightable audio-visual
 4 works, individually and/or in combination with other elements of BATTLEGROUNDS.
 5 Additionally, this creative expression of boost has taken on secondary meaning as an emblem of
 6 BATTLEGROUNDS and of PUBG. For example, it has been featured in a live-action
 7 BATTLEGROUNDS parody skit, available at
 8 [https://www.youtube.com/watch?v=DBwpMDaMoOI&list=PLSMETuURtTXCngmWf_wUWfnzTj](https://www.youtube.com/watch?v=DBwpMDaMoOI&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=1)
 9 [n04XF-B&index=1](https://www.youtube.com/watch?v=DBwpMDaMoOI&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=1).

10 30. **Equipment Acquisition.** In BATTLEGROUNDS, each player lands with nothing
 11 except clothing and a belt. After landing, the player must seek out weapons, modifications to
 12 weapons, ammunition, armor, equipment, clothing and consumables. The player can also find and
 13 use vehicles located throughout the map. Starting with nothing is a key creative and artistic
 14 component of BATTLEGROUNDS. The requirement of scavenging results in the players being
 15 forced to compete for resources and necessary interaction.



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 24 31. BATTLEGROUNDS’ unique expression of Equipment Acquisition is a copyrightable audio-
 25 visual work, individually and/or in combination with other elements of BATTLEGROUNDS.
 26 Additionally, this creative expression of equipment acquisition has taken on secondary meaning as
 27 an emblem of BATTLEGROUNDS and of PUBG. For example, it has been featured in live-action
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BATTLEGROUNDS parody skits, such as those available at

https://www.youtube.com/watch?v=kM8Cws9tiTQ&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=5 and <https://www.youtube.com/watch?v=4hqqFqcr1K8>.

32. Weapons, Modifications and Ammunition. BATTLEGROUNDS includes realistic weapons to simulate real life combat. PUBG created a realistic combat environment, including realistic weapons action (*e.g.*, recoil) and sounds. These expressions of specific weapon audio elements used in BATTLEGROUNDS are protectable works as a combination of the audio synced to the visual operation of the weapons. The types of weapons include melee weapons (*e.g.*, crowbar, machete, sickle and a frying pan), bows, hand guns, rifles, shot guns, assault rifles, sniper rifles, machine guns and grenades. The visual appearances of the weapons are realistic, but each weapon has been stylized to make it distinct from actual real life weapons. For example, the grain pattern on wooden pieces, configurations of the rifles and machine guns, the wear on melee weapons all provide unique details and styling to each weapon, as seen below.



Ammunition for the various firearms can also be found. To add further realism, items that modify the operation of the firearms can also be found, such as different types of optical scopes, stocks, magazines of varying capacities, suppressors, and grips. The variety of modifications provides thousands of combinations of available weapons, leading to diverse gameplay. Additionally, PUBG assigned specific characteristics to each weapon, such as the amount of damage per hit they inflict, recoil, reload time, number of rounds per magazine, range, blast radius (*e.g.*, shotgun and grenades).

33. These expressions of specific characteristics of the weapons, weapon modifications, and ammunition are copyrightable works, providing realism during gameplay as well as a balanced game experience for the players. With regard to damage, PUBG added a further creative aspect to the BATTLEGROUNDS game. As discussed further with regard to armor, the amount of damage depends upon where the opposing player is hit. If the opposing player is hit in the body or the head, different amounts of damage are inflicted on the opposing player. Additionally, the amount of armor worn by the opposing player affects the amount of damage received by the opposing player. All these unique expressions of BATTLEGROUNDS weapons, weapon modifications, and ammunition are individually and/or in combination with each other or with other elements of BATTLEGROUNDS protectable copyrightable audio, visual and/or audio-visual works.

34. **Armor.** In addition to weapons, the player can find and use various types of armor. In particular, the types of armor in BATTLEGROUNDS include helmets and vests. Helmets provide armor protection to the player's head, while the vests provide armor protection to the body. There are three levels of armor protection for both helmets and vests. Vests also increase carrying capacity, as explained further with regard to belts and backpacks, below. Again, PUBG created specific statistics for the amount of armor protection and reduction in damage received from a hit. Additionally, each piece of armor can only absorb a specific amount of damage (i.e., hit points) before the armor is rendered ineffective. Shown, below, are images of the various armor and helmets.



The helmet with the visor, in particular, has achieved secondary meaning, becoming intricately

1 identified with BATTLEGROUNDS. A Google search for “PUBG helmet” or “Battlegrounds
2 helmet” results in hits that for the most part include the image of the helmet with the visor. PUBG
3 created unique visually realistic appearing expressions of armor such as helmets and vests, while
4 adding flair and artistry to these expressions to make them copyrightable visual and/or audio-visual
5 works, individually and/or in combination with each other or with other elements of
6 BATTLEGROUNDS.

7 35. **Clothing.** In addition to armor, the user can pick up additional clothing, such as
8 jackets, pants, hats, goggles, glasses, gloves, masks, shoes and shirts. The pieces of clothing do not
9 affect gameplay but is an artistic expression that provides the player with a visually diverse
10 gameplay experience as well as allowing each player to express him/herself. The use of mixed
11 street-wear and military equipment further reinforces the imaginative experience for players by
12 furthering the game’s premise in which everyday citizens from different backgrounds are forced into
13 an environment in which only one player will be left alive.



27 However, clothing does affect gameplay in terms of camouflage. Clothing can be used to assist the

1 player to blend in with the environment, making the player less visually detectable. In particular,
 2 BATTLEGROUND includes a Ghillie suit, a full body suit covered with camouflaging material
 3 typically used by snipers. The Ghillie suit allows the player to become nearly visually invisible
 4 depending upon the terrain.



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 14 Unlike other shooter games, BATTLEGROUND does not display player designators above
 15 opposing players. The player must visually detect an opposing player without any aid other than
 16 equipment found in gameplay, such as an optical scope. Thus, the colors and stylings of the clothing
 17 found in BATTLEGROUND adds to the rich tapestry of the gameplay experience while permitting
 18 artistic expression. The appearances and styles of clothing found in BATTLEGROUND are
 19 protectable visual and/or audio-visual works, individually and/or in combination with each other or
 20 with other elements of BATTLEGROUND.

21
 22 36. **Equipment.** The BATTLEGROUND player can also find equipment, such as belts
 23 and backpacks. Belts and backpacks not only have unique visual appearances, they are functional as
 24 well. Each player starts with a belt, which permits the player to hold a certain amount of items
 25 (capacity). Additionally, the belt allows the player to attach two weapons to his/her waist, such as a
 26 melee weapon or grenade. The backpack provides additional carrying capacity.

27 The belts and the different types of backpacks can carry different amounts of equipment and
 28 supplies, as developed by PUBG. As noted, PUBG also created uniquely creative visual appearances

for each belt and backpack, making them copyrightable visual and/or audio-visual works, individually and/or in combination with each other or with other BATTLEGROUNDS elements.



37. **Configuration.** The player has the freedom to determine how to equip him/herself during gameplay. PUBG designed slots for easily accessible weapons. In particular, two slots are designated for rifles or shotguns, each carried around one of the player's shoulders. A third slot is designated for a hand gun. Fourth and fifth slots are designated for melee weapons or grenades, to be carried along the player's waist.



Additionally, clothing, equipment and armor are equipped as appropriate on the character's body. The particular set up of the configurable slots is a unique expression created by PUBG, and the slots are copyrightable visual and/or audio-visual works, individually and/or in combination with each other or with other BATTLEGROUNDS elements.

38. **The “Frying Pan.”** One very beloved aspect of creative expression in BATTLEGROUND is the game’s iconic frying pan. Previous shooter games did not include the use of a frying pan. In BATTLEGROUND, a character who obtains a frying pan may use it as a hand-held melee weapon and also may use it as armor. When the frying pan is equipped on a character’s waist, the frying pan is depicted as covering the character’s posterior (buttocks). When so equipped, as a purely artistic and creative expression injecting humor into the game, the frying pan is the only indestructible armor in the game (*i.e.*, armor that can absorb infinite hit points without deteriorating), providing complete protection against projectiles aimed at a character’s posterior. Thus, the imaginative treatment of a frying pan as a melee weapon is made even more remarkable by its further treatment as armor against shots to the butt of a character. The frying pan element thus creatively adds humor and whimsy to the audiovisual presentation of the game. PUBG animation of a frying pan as both weapon and indestructible butt armor is a copyrightable visual and/or audio-visual work, individually and/or in combination with other elements of the BATTLEGROUND.



Character holding frying pan as melee weapon



Ricochet off frying pan worn as armor

Furthermore, the frying pan has taken on secondary meaning as an emblem of the BATTLEGROUNDS game and of PUBG. For example, it has been the subject of a live-action BATTLEGROUNDS parody skit, available at, https://www.youtube.com/watch?v=jfQGY8xaxO0&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=12. It has also been featured in other BATTLEGROUNDS parodies and memes. See, e.g., <https://www.youtube.com/watch?v=bywZTWzkuQM>; see also <https://9gag.com/gag/aVM1Aby/best-pubg-armor>.



Sample PUBG frying pan meme

39. **Consumables.** While the player attempts to stay alive, he/she can also gather consumables, such as bandages, first aid and medical kits, painkillers, adrenaline syringes, energy drinks and gas cans. Bandages, first aid kits and medical kits heal the character's health varying amounts instantly upon application, the application time of each also varying. The energy drink, painkiller and syringe increase the player's boost level, which provides regeneration over time and/or an increase in player speed, as discussed with regard to boost level, above. However, the energy drink instantly increases the player's character's health a set amount, and also increases the player's boost level. The syringe can only be found in an air dropped supply box, and provides the largest amount of increase in boost level, providing healing and speed boost. The gas can is used to refuel vehicles, as discussed further, below. The expressions of the consumables' abilities to increase the health of a player, as well as increasing the player's boost level, are unique to BATTLEGROUNDS and are copyrightable visual and/or audio-visual works, individually and/or in combination with each other or with other BATTLEGROUNDS elements. Additionally, the unique depictions of certain consumables in BATTLEGROUNDS, such as the energy drinks, have taken on secondary meaning as emblems of BATTLEGROUNDS and PUBG due to their non-traditional, light-hearted and whimsical use. For example, the energy drinks have been the subject of a live-action BATTLEGROUNDS parody skit, available at https://www.youtube.com/watch?v=DBwpMDaMoOI&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=1 and https://www.youtube.com/watch?v=V_vUrY1MczI&index=9&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=9 ; see also https://www.youtube.com/watch?v=V_vUrY1MczI.

40. **Vehicles.** Plaintiff PUBG has included vehicles to BATTLEGROUNDS to provide an immersive life like experience. In addition to the planes that drop the players and supply boxes, various automobiles and boats can be found throughout the game play map. Automobiles include stylized buggies, off road vehicles, motorcycles (with or without a sidecar), vans, pickups, and sedans. Each automobile has distinctive operating sounds that can be recognized by experienced players. The automobiles come in varying colors and conditions. Automobiles also start with a

1 certain amount of boost, which when activated increases the speed of the automobile but at the cost
2 of increased fuel consumption. As noted previously, players can refuel automobiles with gas cans.



1 41. The automobiles exhibit realistic handling. For example, taking a hard turn may
2 cause the automobile to flip over. Automobiles may also provide a measure of protection from fire
3 from opposing players as well, but can also explode from enemy fire. Additionally, players can
4 obtain a speed boat or jet ski to travel over the water to the islands. Additionally, other types of
5 vehicles can be seen and heard throughout the game, such as the plane used for the parachute drop,
6 and the plane used for parachuting supply boxes, as discussed further, below. These vehicles also
7 have distinctive and artistic operating sounds which players can recognize during game play. These
8 expressions of vehicles in BATTLEGROUNDS are copyrightable audio, visual and/or audio-visual
9 works, individually and/or in combination with each other or with other BATTLEGROUNDS
10 elements. These expressions of vehicles have also taken on secondary meaning as an emblem of
11 BATTLEGROUNDS and of PUBG. For example, they have been featured in live-action
12 BATTLEGROUNDS parody skits, such as those available at
13 [https://www.youtube.com/watch?v=sQ6s6ujf6kY&list=PLSMETuURtTXCngmWf_wUWfnzTjn04](https://www.youtube.com/watch?v=sQ6s6ujf6kY&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=2)
14 [XF-B&index=2](https://www.youtube.com/watch?v=sQ6s6ujf6kY&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=2) ,
15 [https://www.youtube.com/watch?v=V_vUrY1McZI&index=9&list=PLSMETuURtTXCngmWf_wU](https://www.youtube.com/watch?v=V_vUrY1McZI&index=9&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=9)
16 [WfnzTjn04XF-B&index=9](https://www.youtube.com/watch?v=V_vUrY1McZI&index=9&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=9), and <https://www.youtube.com/watch?v=4hqqFqcr1K8>.

17 42. **Weapon, Equipment and Vehicle Spawning.** While many of the weapons,
18 consumables and vehicles are located randomly throughout the game play map, they may also spawn
19 at certain set locations. Fixed spawn locations allows experienced players to focus on certain areas
20 of the game play map to obtain items and vehicles. Spawn locations of highly desired items further
21 promote players to interact in BATTLEGROUNDS. The mix of randomness and fixed spawn
22 locations provides unlimited possibilities for game play strategy. These expressions of weapons,
23 equipment, and vehicle spawning are copyrightable visual and/or audio-visual works, individually
24 and/or in combination with other elements of BATTLEGROUNDS.



Equipment spawning in a house



Vehicle spawning in a garage

43. **Game Areas & Buildings.** The BATTLEGROUND game play map includes a number of areas, such as towns, farms, a power plant and even a shooting range. The artistic renderings and locations of these areas provide an entertaining backdrop to game play in BATTLEGROUND.



1 In addition, PUBG has created artistic renderings of various type of buildings throughout the
2 immersive game play map. Buildings include outposts, warehouses, houses, buildings, and even a
3 lighthouse. Again, the variety and types of buildings create a realistic environment, as well as
4 providing strategic locations for game play.
5





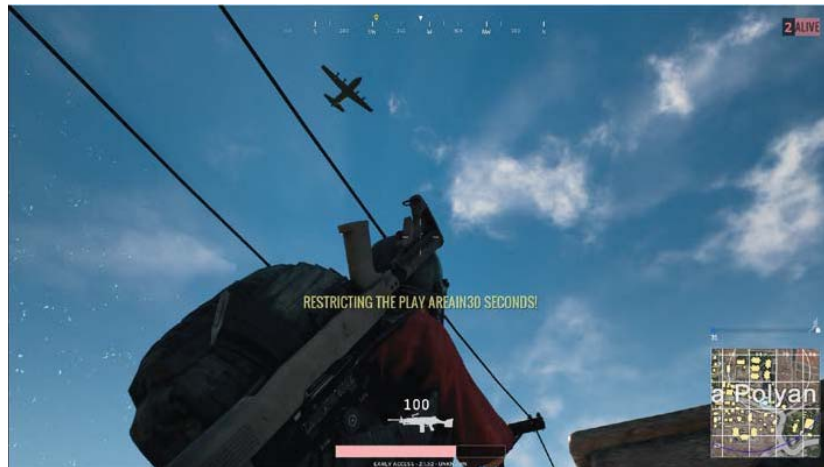
Thus, these expressions of landscapes and buildings within BATTLEGROUNDS are copyrightable visual and/or audio-visual works, individually and/or in combination with each other or with other elements of BATTLEGROUNDS.

44. **Movement.** Players can move around in many different ways. They can stand, walk, run, take a prone position, crawl in a prone position or take a kneeling position. The various positions provide benefits and disadvantages. For example, a player can shoot a rifle most accurately in a prone position, but leaves the player vulnerable if detected. Shooting from a standing position is less accurate, but the player can readily walk or run to cover after taking a shot. However, walking and running creates more noise than crawling. These expressions of player movements and accompanying sounds in Battleground are copyrightable audio, visual and/or audio-visual works, individually and/or in combination with each other or with other elements of BATTLEGROUNDS.

45. **Sounds and Noise.** The audiovisual experience of BATTLEGROUNDS includes numerous expressive sounds that contribute to the audiovisual depiction of the imaginary spaces, objects, and actions. Unlike other computer games, there is no music during gameplay. The player must listen to his/her environment to obtain a competitive edge. For example, the player can hear an opposing player's footsteps, a supply drop aircraft flying overhead, and the distinctive gunshots of the various firearms. PUBG created each unique sound to augment the realism of the audiovisual presentation; they allow the player to react to the sounds and, with a trained ear, distinguish the type

1 of firearm being used. As another example, each vehicle sounds different. A player can discern the
 2 approach of a vehicle, and potentially determine the vehicle type, from sounds. These distinctive
 3 audiovisual expressions add richness to the gameplay created by PUBG. In fact, many
 4 commentators have identified the relationship between success in the game and the ability to identify
 5 and discern these player, weapon and vehicle sounds. *See, e.g.,*
 6 <https://www.turtlebeach.com/blog/how-audio-helps-you-get-your-chicken-dinner-in-pubg/>;
 7 <https://www.redbull.com/gb-en/pubg-xbox-one-tips-guide>;
 8 <https://www.youtube.com/watch?v=zBSBu72qF0s>. The game also includes other distinctive
 9 sounds, such as the sounds of parachuting through the wind, the sounds of male and female
 10 characters being attacked, the sound of tires destroying objects, and the sounds of item acquisition.
 11 These unique sounds are copyrightable in combination with other elements of BATTLEGROUNDS.

12 46. **Air Drops.** Another artistic aspect of BATTLEGROUNDS are air drops of supply
 13 boxes from a flying aircraft. As the aircraft approaches, the players can hear the sound of the
 14 aircraft, alerting them to a potential air drop.



15 The supply boxes are colored red and covered by a blue tarp, and parachute down from the aircraft.
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When the supply box lands, red smoke wafts up from the landing site, drawing the attention of players to the location of the supply box and creating a dramatic visual impression.



The supply box provides the first player to reach it with either weapons, modifications to weapons

(*e.g.*, a scope), ammunition, clothing (*e.g.*, camouflaged clothing) or medical supplies. Players can either speed towards the supply box to obtain the supplies, or lurk around the supply box to snipe other players that approach the supply box. These expressions of air drops in BATTLEGROUNDS are copyrightable, individually and/or in combination with each other or with other elements of BATTLEGROUNDS. The supply boxes also have also taken on secondary meaning as an emblem of BATTLEGROUNDS and of PUBG. Fans have created skits evoking the identifiable red smoke and red and blue supply boxes. See <https://www.youtube.com/watch?v=0dG6HliC9OI>; <https://www.youtube.com/watch?v=YDp87dUytd8>.

47. **Bombardment Zone** (Red Zones). PUBG inserted an artistic periodic event where a circular zone, marked in red on the game map, is targeted for bombardment. Prior to bombardment, the players are warned of the impending barrage. This creative event conveys fear, danger, and urgency, causing players to either seek shelter or evade the bombardment, potentially running into other players. However, merely obtaining shelter may not completely protect the player if he/she is too near an opening (*e.g.*, door or window). The bombardment is an artistic catalyst to create further interaction between the players. This expression of a bombardment zone is a copyrightable visual and/or audio-visual work, individually and/or in combination with other elements of BATTLEGROUNDS. The bombardment zone has also taken on secondary meaning as an emblem of BATTLEGROUNDS and of PUBG. For example, it has been featured as a punchline in multiple live-action BATTLEGROUNDS parody skits, available at <https://www.youtube.com/watch?v=pqSN7lsPs2k>.

48. **Shrinking Gameplay**. The conclusion of each game is creatively precipitated by the shrinking of the gameplay area within the map. A timer is provided to the players notifying them when the viable play area will shrink to a circle within the game play map. The first large circle is displayed in white on the game map, indicating where the players will be confined after the timer expires. A large blue circle covering the entire map appears and slowly shrinks down to the first white circle. Players caught outside of the closing blue circle will begin losing health until they either reach the interior of the first white circle or their health falls to zero. A new timer begins and

1 a smaller circle within the first circle appears on the map. After the expiration of the second timer,
 2 the first circle is displayed in blue, which begins shrinking down to the smaller white. The process
 3 repeats four times, until the game play is restricted to a final circle of area representing a relatively
 4 small area within the game play map.



21 The rate of loss of health outside the circles also increases, players caught outside the final circle
 22 instantly falling to zero health. This creative aspect of BATTLEGROUNDS forces the players to
 23 converge to a single location to resolve who will be the last player standing. The timing, sizes, and
 24 progression of the shrinking game play area results in a unique experience in each game, paces
 25 gameplay to reduce lulls in the action, and provides ever increasing tension in the game. PUBG's
 26 expression of the shrinking game play area is a copyrightable visual and/or audio-visual work,
 27 individually and/or in combination with other elements of BATTLEGROUNDS. The shrinking
 28

game play area has also taken on secondary meaning as an emblem of BATTLEGROUNDS and of PUBG. For example, it has been the subject of various live-action BATTLEGROUNDS parody skits. *See*

https://www.youtube.com/watch?v=RPFZgk_O8Ok&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=3;

https://www.youtube.com/watch?v=V_vUrY1McZI&index=9&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=9; <https://www.youtube.com/watch?v=pqSN7lsPs2k;>

<https://www.youtube.com/watch?v=YDp87dUytd8;> and

<https://www.youtube.com/watch?v=4hqqFqcr1K8>. *See also*

https://www.youtube.com/watch?v=sQ6s6ujf6kY&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=2;

https://www.youtube.com/watch?v=5FW7xb8jWew&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=25.

49. **“Down But Not Out.”** BATTLEGROUNDS features three play modes: (1) “solo” in which a each player fights alone against the field; (2) “duo” in which players are teamed into groups of two and fight to be the last duo remaining; and (3) “squad” in which players are grouped into squads of 4 and fight to be the last squad remaining. In “duo” and “squad” modes, every member of a team needs to die to be considered defeated. However, in both modes, players survive for a short time even after their health/energy has been depleted. During this time, that player may be revived by a team who crouches next to the fallen player for a pre-determined period of time which is referred to as “Down But Not Out (“DBNO”).” PUBG’s expression of DBNO gameplay is a copyrightable visual and/or audio-visual work, individually and/or in combination with other elements of BATTLEGROUNDS. The DBNO gameplay element has also taken on secondary meaning as an emblem of BATTLEGROUNDS and of PUBG. For example, it has been the subject of various live-action BATTLEGROUNDS parody skits. *See*

https://www.youtube.com/watch?v=HhZZIu8Yem4&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=4;

1 https://www.youtube.com/watch?v=KD9sMqp7bdE&list=PLSMETuURtTXCngmWf_wUWfnzTjn
 2 [04XF-B&index=6](https://www.youtube.com/watch?v=KD9sMqp7bdE&list=PLSMETuURtTXCngmWf_wUWfnzTjn); and
 3 https://www.youtube.com/watch?v=5FW7xb8jWew&list=PLSMETuURtTXCngmWf_wUWfnzTjn
 4 [04XF-B&index=25](https://www.youtube.com/watch?v=5FW7xb8jWew&list=PLSMETuURtTXCngmWf_wUWfnzTjn).

5 50. **“Winner Winner Chicken Dinner.”** Should a player be the last player standing at
 6 the end of the game, he/she is rewarded with a salutary “Winner Winner Chicken Dinner!”
 7 announcement.



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 14 Victory Screen from BATTLEGROUNDS

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 16 The juxtaposition of this lighthearted expression of victory with the survival narrative of the game
 17 adds elements of surprise and humor to the work, and the artistic inclusion of this emphatic
 18 expression has become particularly beloved by the gaming community. “Winner Winner Chicken
 19 Dinner” in the context of a shooter game is a copyrightable work in combination with other elements
 20 of *Battleground*. Furthermore, this catchphrase has taken on secondary meaning within the gaming
 21 community as an emblem of BATTLEGROUNDS and of PUBG; it has become nearly synonymous
 22 with BATTLEGROUNDS to gamers.

23 As an example, this phrase also has been featured in memes, live-action parody videos, and other
 24 responsive content created by fans. For example, it has been featured in live-action
 25 BATTLEGROUNDS parody skits, such as those available at

26 https://www.youtube.com/watch?v=jfQGY8xaxO0&list=PLSMETuURtTXCngmWf_wUWfnzTjn0
 27 [4XF-B&index=12](https://www.youtube.com/watch?v=jfQGY8xaxO0&list=PLSMETuURtTXCngmWf_wUWfnzTjn0), <https://www.youtube.com/watch?v=O9JsWOo->

1 [Qyk&list=PLSMETuURtTXCngmWf_wUWfnzTjn04XF-B&index=13,](#)
 2 [https://www.youtube.com/watch?v=EAnPxrg5kUE&index=16&list=PLSMETuURtTXCngmWf_w](#)
 3 [UWfnzTjn04XF-B&index=16,](#) and [https://www.youtube.com/watch?v=4hqqFqcr1K8,](#) and it has
 4 also been featured in other BATTLEGROUNDS parodies and memes.

5 **Copying in *Rules of Survival* Game**

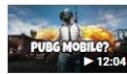
6 51. ***Rules of Survival:*** *Rules of Survival* (“*ROS*”) is a video game that was made and
 7 released by Defendants. *ROS* was released for mobile devices in the United States on or about
 8 November 14, 2017.

9 52. On information and belief, Defendants created *ROS* by copying BATTLEGROUNDS
 10 and with the intention of creating a version of BATTLEGROUNDS for mobile devices.

11 53. On information and belief, Defendants intended to create consumer confusion as to
 12 the source of *ROS* and intended to cause consumers to believe, incorrectly, that *ROS* had been
 13 developed by PUBG. On information and belief, Defendants intended to misappropriate consumer
 14 goodwill toward PUBG in order to market and gain economic benefit from *ROS*.

15 54. On information and belief, there has in fact been confusion in the marketplace as to
 16 the source and origin of *ROS*, with consumers believing, incorrectly, that *ROS* was developed by
 17 PUBG. For example, *ROS* has been referred to in the marketplace as “PUBG on Mobile,” “Mobile
 18 PUBG,” and the “BEST MOBILE PUBG”:
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PUBG on Mobile - Rules of Survival - YouTube



https://www.youtube.com/watch?v=_R5CmDXE1u0

Nov 15, 2017 - Uploaded by King_Steemer

In which we take a look at *Rules of Survival* a game that's similar to *PUBG* on Mobile Enjoy the Video ...

MOBILE PUBG - RULES OF SURVIVAL CLOSE CALL! (Old Gameplay ...



<https://www.youtube.com/watch?v=jKtTUQxWQg>

Jan 29, 2018 - Uploaded by Coolmark

LET'S GO FOR 122 LIKES! Was too close for comfort lol » Become a Sponsor:
<https://goo.gl/puDtJa> » Twitter ...

11 SIT DOWNS | RULES OF SURVIVAL | MOBILE PUBG BATTLE ...



<https://www.youtube.com/watch?v=wxmYh15YDY>

Dec 7, 2017 - Uploaded by Dan Gheesling

Rules of Survival is a *PUBG* like Battle Royale game for your mobile device. What do you think of it? Subscribe ...

8 SIT DOWNS | RULES OF SURVIVAL | MOBILE PUBG BATTLE ...



https://www.youtube.com/watch?v=EKK_Ex9QIIA

Dec 5, 2017 - Uploaded by Dan Gheesling

Rules of Survival is a *PUBG* like Battle Royale game for your mobile device. What do you think of it? Subscribe ...

The Best Mobile PUBG Clone!! (Rules of Survival) - YouTube



<https://www.youtube.com/watch?v=51Nj4L3bBIs>

Dec 8, 2017 - Uploaded by BossJ03L

If you want to chat with me or just keep up with my latest activities feel free to follow me on Twitter, Instagram ...

Sampling of player videos available at <https://goo.gl/hNupQo>

55. On information and belief, commentators in the industry have characterized *ROS* as a copy, “rip-off,” “knock-off,” or “clone” of BATTLEGROUNDS. For example, one industry commentator observed that “fans viewed the game [*i.e.*, *ROS*] simply as a rip-off of the highly successful ‘PlayerUnknown’s Battlegrounds (‘PUBG’)” because “[e]verything about it screamed ‘PUBG’ as the majority of its elements seem to have been taken from the popular Xbox One title.” <https://www.christiantoday.com/article/rules-of-survival-update-includes-bigger-map-that-can-fit-300-players/125498.htm>. Other industry commentators have repeatedly characterized *ROS* as a “clone” or “knock-off” of BATTLEGROUNDS, or “[h]eavily modeled after” BATTLEGROUNDS. Samples of such commentary are available at <http://toucharcade.com/2018/02/07/new-300-player-fearless-fjord-map-is-now-playable-in-latest-rules-of-survival-update/>; <https://www.cnet.com/news/playerunknown-battlegrounds-mobile-rules-of-survival-clone/>; <http://www.pocketgamer.co.uk/r/Android/Rules+of+Survival/feature.asp?c=76595>; and <https://www.vg247.com/2017/10/18/remember-that-chinese-mobile-pubg-knock-off-its-back-with-new-gameplay/>.

56. On information and belief, the *ROS* app can be downloaded to a mobile device free of

1 charge, and the *ROS* game can be played free of charge. On information and belief, Defendants have
 2 released *ROS* into the marketplace at or below cost for the purpose of gaining market share before
 3 PUBG releases BATTLEGROUNDS for mobile devices.

4 57. *ROS* contains many elements that are substantially similar to copyrightable elements
 5 of creative audiovisual expression in BATTLEGROUNDS, including at least the following.

6 58. **Total Look and Feel.** The overall look, feel, and audiovisual style of *ROS* closely
 7 mimic the stylized realism of BATTLEGROUNDS.

8 *Rules of Survival*



BATTLEGROUNDS





59. **Overall Gameplay.** The overall look and feel of gameplay in *ROS* very closely matches that of *BATTLEGROUNDS*. For example, the narrative arc of the game; the audio and visual representations of movement, shooting, healing and boosting; and the battle formats presented (*e.g.*, player versus everyone and small teams versus everyone) all correspond to those of *BATTLEGROUNDS*.

60. **Boosting.** *ROS* includes boosting misappropriates the boosting aspect of *BATTLEGROUNDS*, thus copying this unique expression of bodily nourishment and fortification in the artistic manner created by *PUBG*. *ROS* includes a health (hit points) bar with symbols located over it: a heart with a plus symbol, which indicates regeneration, and a running symbol indicating

1 increased speed, very similar to BATTLEGROUNDS' boost bar. Both BATTLEGROUNDS and
 2 *ROS* offer an energy drink as one boost item and a syringe as another boost item, and in both games
 3 the syringe is available only via air drop. In both games, the energy drinks increases hit points, and
 4 potentially a boost in speed. In both games, the syringe restores a greater amount of health as well
 5 as providing increased speed.



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 14 61. **Pre-Play Area.** As in BATTLEGROUNDS, the *ROS* audiovisual experience begins
 15 with a pre-play area where players can meet each other and try out weapons while waiting for
 16 enough players to join. While prior games have used pre-play screens and areas, the expressive
 17 depiction of a pre-play area in BATTLEGROUNDS, which encourages players to interact with
 18 another, use weapons, and explore gameplay mechanics is unique. On information and belief,
 19 Defendants copied PUBG's expressive depictions of the pre-play area where other depictions could
 20 have been used for the purpose of evoking the same pre-play experience depicted in
 21 BATTLEGROUNDS.
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62. **Play Map.** Like BATTLEGROUNDS, *ROS* provides a map defining the area of play, and the *ROS* map is substantially similar to the BATTLEGROUNDS map. The BATTLEGROUNDS map and *ROS* map each comprises a large island in a square-ish shape with a canal leading to a large city, along with a smaller unconnected island. Both maps feature towns, farms, buildings, fields, trees, roads, bridges and feature mountainous topography which is depicted as if taken using a reconnaissance satellite as well as featured location indicators and white lettered descriptions of those featured areas. Although maps have been used in prior games, the depiction of the map in *ROS* is strikingly similar to the depiction of the map in BATTLEGROUNDS. On information and belief, Defendants copied PUBG's expressive depiction of the map where another depiction could have been used.



BATTLEGROUNDS Play Area Map



ROS Play Area Map

63. **Scenes and Locations.** Many of the locations, structures, landscapes, and other features within the *ROS* play area closely correspond to those within the BATTLEGROUNDS play area. For example, the BATTLEGROUNDS play area and the *ROS* play area each contain a shooting range, a rural aqueduct, a port with shipping containers and a farm area. These areas in *KO* are strikingly similar to those in BATTLEGROUNDS. On information and belief, Defendants

1 copied PUBG's expressive depictions of the scenes and locations identified below where other
2 depictions could have been used for the purpose of evoking the same gameplay experience depicted
3 in BATTLEGROUNDS.



BATTLEGROUNDS shooting range



ROS shooting range

1 Additionally, they each contain a concrete aqueduct in a rural setting.



BATTLEGROUNDS rural aqueduct



ROS rural aqueduct

1 Additionally, they each contain a port with many shipping containers, where items spawn in similar
2 locations in both games.



BATTLEGROUND port with shipping containers



ROS port with shipping containers

1 Additionally, they each contain a farm area with a tractor and haystacks that provide cover.



10 BATTLEGROUNDS farm area



19 ROS farm area

20 64. **Buildings.** The *ROS* play area contains numerous buildings that are substantially
 21 similar to buildings in BATTLEGROUNDS. Although buildings have been used in prior games, the
 22 facades and layouts of the buildings in *ROS* are strikingly similar to those in BATTLEGROUNDS.
 23 On information and belief, Defendants copied PUBG's expressive depictions of the buildings
 24 identified below where other depictions could have been used for the purpose of evoking the same
 25 gameplay experience depicted in BATTLEGROUNDS. For example, each game contains a two-
 26 story home with a garage, garage roof deck, front door, windows, rooflines, and masses of the same
 27 shapes, proportions, and layouts.



BATTLEGROUND two-story home



ROS two-story home



Garage roof deck on BATTLEGROUNDS two-story home



Garage roof deck on ROS two-story home

As another example, both games contain a three-story residential building with masses, rooflines, entrances, windows, and roof decks, of the same shapes, proportions, and layouts.



Three-story residential building in BATTLEGROUNDS



Three-story residential building in ROS



Roof deck on three-story residential building in BATTLEGROUNDS



Roof deck on three-story residential building in ROS

As another example, each game contains an elongated single-story building with mass, windows, roofline, entrance, doorway, steps, balconies, railings of the same shapes, proportions, and layouts.



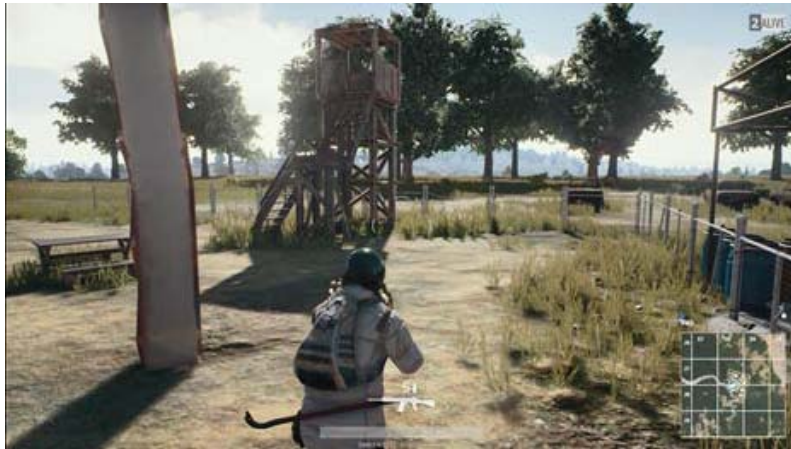
Single-story building in Battleground



Single-story building in ROS

As another example, each game contains an observation tower with a platform, roof, and staircase of approximately the same shape and proportions.





Observation towers in BATTLEGROUNDS



Observation tower in ROS

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities in the BATTLEGROUNDS and ROS game play areas.

65. **Air Jump.** Play begins in ROS with a transport airplane from which players jump, freefall, and parachute into the play area. As in BATTLEGROUNDS, the route of the plane is shown in a mini-map within the play screen, and players can choose to jump at any point. Both ROS and BATTLEGROUNDS use similar types of vehicles, similar expressions of a satellite-view map depicting various locations and their names, and similar expressions to indicate the user's location on the map. On information and belief, Defendants copied PUBG's expressive depictions of an Air

Jump where other depictions could have been used for the purpose of evoking the same introductory experience felt by players of BATTLEGROUND.



Transport Airplane in BATTLEGROUND



Transport Airplane in ROS



Airplane Route Map in PUBG



Airplane Route Map in ROS

66. **Freefall and Parachuting.** As in BATTLEGROUNDS, following the jump from the airplane, a player can choose to freefall or parachute toward the ground. The depiction of freefall in *KO* is strikingly similar to the depiction of freefall in BATTLEGROUNDS. Further, *KO* uses the same depiction of a parachute as used in BATTLEGROUNDS. On information and belief, Defendants copied PUBG's expressive depictions of freefall and parachuting, where other depictions could have been used, solely for the purpose of evoking the same introductory experience felt by players of BATTLEGROUNDS.



Freefall in BATTLEGROUNDS



Freefall in ROS



Parachuting in BATTLEGROUNDS



Parachuting in ROS

67. **Weapons.** The firearms, melee weapons, and throwable weapons in *ROS* are substantially similar to those in BATTLEGROUNDS. In general, and on information and belief, each weapon in *ROS* corresponds to a weapon in BATTLEGROUNDS that is the same type of

1 weapon, inflicts the same or a similar amount of damage per hit, has a similar appearance, has a
2 similar operation, has similar attachments, and has a similar name. Further, the assortment of
3 weapons and weapon types available in *ROS* are substantially similar to those in
4 BATTLEGROUND, as explained in further detail below.

5 68. **Firearms.** The firearms in *ROS* are substantially similar to those in
6 BATTLEGROUND, having the same or similar type, appearance, and, on information and belief,
7 performance statistics (*e.g.*, load capacity and damage inflicted per discharge). For example, the
8 “Tommy Gun” submachine gun in BATTLEGROUND and the “Thompson” submachine gun in
9 *ROS* have substantially similar appearances and performance statistics. Although weapons have
10 been used in prior games, on information and belief, Defendants have copied PUBG’s graphical,
11 statistical and audio expressions of the weapons identified below where other graphical, statistical
12 and audio expressions could have been used. For example, note the similarity of the grip, magazine
13 and the stock of both the BATTLEGROUND “M416” and the *ROS* “MA14” assault rifle.



19 “M416” Assault Rifle in BATTLEGROUND



26 “MA14” Assault Rifle in *ROS*

As another example, the “Tommy Gun” submachine gun in BATTLEGROUND and the “Thompson” submachine gun in *ROS* have substantially similar appearances and performance statistics.



“Tommy Gun” Submachine Gun in BATTLEGROUND



“Thompson” Submachine Gun in *ROS*

As another example, the “AWM” sniper rifle in BATTLEGROUND and the “AWM” sniper rifle in *ROS* have substantially similar appearances and performance statistics. Note the same color scheme of the two rifles. Both rifles are available in different color schemes, but Defendants chose the color scheme of their AWM rifle to closely mimic the appearance of the AWM rifle in BATTLEGROUND.



“AWM” Sniper Rifle in BATTLEGROUND



“AWM” Sniper Rifle in *ROS*, with scope and bipod attached

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

69. **Attachments and Modifications for Firearms.** The attachments and modifications for firearms in *ROS* are substantially similar to those in *BATTLEGROUND*S, having the same or similar type, appearance, and on information and belief, performance statistics. For example, both games offer muzzle attachments in the form of silencers/suppressors, flash hiders, compensators, and a shotgun choke; both games offer an angled grip attachment and vertical grip attachment; both games offer similar assortments of magazines and stocks, including “Extended” magazines, “QuickDraw” magazines, and “Extended QuickDraw” magazines; and both games offer similar assortment of scopes, including a “red dot sight” that is depicted similarly in both games. Selected representative examples are shown below:



“Red Dot Sight” in *BATTLEGROUND*S



“Red Dot Sight” in *ROS*



https://www.google.com/search?safe=off&biw=943&bih=921&tbm=isch&sa=1&ei=YY2yWq3QJqLajwSd7rDIAw&q=sniper+rifle+cheek+pad&oq=sniper+rifle+cheek+pad&gs_l=psy-ab.3...0.0.0.5996.0.0.0.0.0.0.0.0.0...0...1c..64.psy-ab.0.0.0...0.-JD66v_6sts:





Sniper Rifle Check Pad in *ROS*



Bullet Loops for Shotgun in *BATTLEGROUND*



Shotgun Bullet Loop in *ROS*



Extended Magazine for Submachine Guns in *BATTLEGROUND*



Submachine Gun Extended Magazine for *ROS*



Suppressor, Compensator, and Flash Hider for Sniper Rifles in *BATTLEGROUND*S



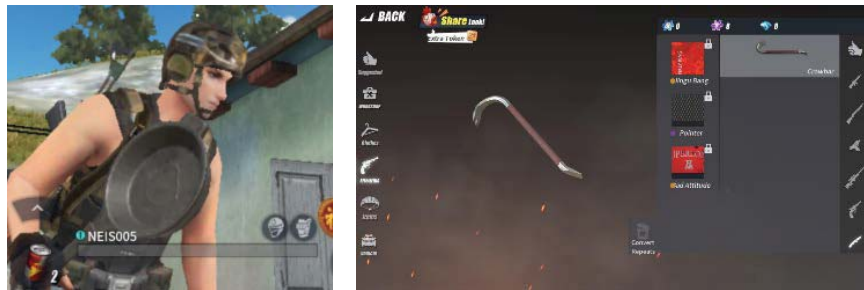
Silencer, Compensator, and Flash Hider for Sniper Rifles in *ROS*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

70. **Melee Weapons.** The melee weapons in *ROS* are substantially similar to those in *BATTLEGROUND*S. Both games offer a frying pan and a crowbar that are depicted similarly and operate similarly. The use of cookware as a melee weapon is highly uncommon in shooter type games, and Defendants' use of a frying pan with the same shape and properties as the frying pan introduced in *BATTLEGROUND*S was intended to misappropriate Plaintiff *PUBG*'s unique expression



Frying Pan and Crowbar in BATTLEGROUNDS

Frying Pan and Crowbar in *ROS*

Additionally, in *ROS*, a rubber chicken is available as a melee weapon that causes damage. Holding the rubber chicken also enables the character to run faster. The use of a rubber chicken to illustrate the form of this melee weapon is unnecessary because other objects could have been used to illustrate the same functions. On information and belief, Defendants' decision to include a rubber chicken as a melee weapon in *ROS* was made for the sole purpose of evoking the iconic "Winner Winner Chicken Dinner" emblem of BATTLEGROUNDS.

Rubber Chicken Melee Weapon in *ROS*

71. **Throwable Weapons.** The throwable weapons in *ROS* also are substantially similar

to those in BATTLEGROUNDS. Each game has four grenades: a frag grenade, a stun grenade, a smoke grenade, and a Molotov cocktail. The grenades are depicted similarly, operate similarly, and, upon information and belief, inflict the same level of damage in each game. For example, in both BATTLEGROUNDS and *ROS*, the Molotov cocktail does not have a delayed explosion.



Fragmentation Grenade, Stun Grenade, Smoke Grenade, and Molotov Cocktail in BATTLEGROUNDS



Frag Grenade, Stun Grenade, Smoke Grenade, and Molotov Cocktail in *ROS*

The grenades in *ROS* are depicted similarly to the grenades in BATTLEGROUNDS. The frag grenade in each game is depicted as having a removable pin, a lever and a rounded body. The stun and smoke grenades are each oblong cylinders with a pin and lever and have writing on the side of the canister. On information and belief, Defendants copied PUBG's expressive depictions of the grenades identified above where other depictions could have been used. Additionally, *ROS* includes an exploding chicken grenade, which is depicted as a metal chicken. It has a larger blast radius than the frag grenade but deals the same amount of damage. The use of a chicken head to illustrate a grenade variation is unnecessary, because other objects or images could have been used to illustrate the same functions. On information and belief, Defendants' decision to include an exploding

1 chicken as a throwable weapon in *ROS* was made for the sole purpose of evoking the iconic “Winner
2 Winner Chicken Dinner” emblem of BATTLEGROUNDS.



9 72. **Armor.** The armor in *ROS* is substantially similar to the armor in
10 BATTLEGROUNDS. Each game has three levels of helmets and three levels of body armor, and
11 these items are depicted similarly, operate similarly, and, on information and belief, provide the
12 same levels of damage reduction.



18 BATTLEGROUNDS Helmets providing good damage reduction (Level 1), better damage reduction
19 (Level 2), and best damage reduction (Level 3), respectively



23 *ROS* Helmets providing good damage reduction (Level 1), better damage reduction (Level 2), and
24 best damage reduction (Level 3), respectively

25 The different levels of helmets are expressed similarly across both games. For example, the “Level
26 1” helmet in both games is a motorcycle or scooter-style helmet which covers the top, back and sides
27 of the wearer’s head. The “Level 2” helmet in both games is a camouflaged military helmet and
28

1 covers the same areas of the wearer's head as the "Level 1" helmet. Finally, the "Level 3" helmet in
 2 both games resembles a special forces helmet covers all sides of the wearer's head including the
 3 front and has a shiny black appearance, and both include a visor. On information and belief,
 4 Defendants copied PUBG's expressive depictions of the helmets identified above where other
 5 depictions could have been used.



11 BATTLEGROUNDS Body Armor providing good damage reduction (Level 1), better damage
 12 reduction (Level 2), and best damage reduction (Level 3), respectively



16 ROS Body Armor providing good damage reduction (Level 1), better damage reduction (Level 2),
 17 and best damage reduction (Level 3), respectively

18 Additionally, both games provide a frying pan for use as armor, as discussed further below.

19 73. **Frying Pan.** As explained above in paragraph 68, *ROS* provides a frying pan that can
 20 be used both as a melee weapon and as armor, as in BATTLEGROUNDS. The frying pan in *ROS* is
 21 designed with the same shape and characteristics as the frying pan in BATTLEGROUNDS. As with
 22 the BATTLEGROUNDS frying pan, the *ROS* frying pan provides medium damage output when
 23 used as a melee weapon and can deflect shots when in a character's hand or on a character's back.
 24 The use of a frying pan to illustrate this item of weaponry and armor is unnecessary to the game,
 25 because other objects could have been used to illustrate the same functions. On information and
 26 belief, Defendants' decision to include a frying pan as a melee weapon and armor item in *ROS* was
 27 made for the sole purpose of evoking the iconic frying pan emblem of BATTLEGROUNDS.



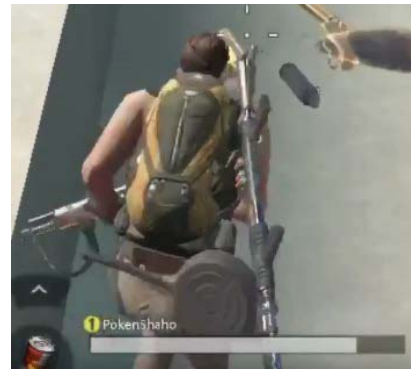
Frying pan wielded as melee weapon in BATTLEGROUNDS



Frying pan wielded as melee weapon in ROS



Frying pan worn as butt armor in BATTLEGROUNDS



Frying pan worn as butt armor in *ROS*

74. **Clothing and Other Wearable Equipment.** The clothing and other items of wearable equipment in *ROS* are substantially similar to those in *BATTLEGROUND*S. Each game has a similar assortment of such items, which are depicted similarly, operate similarly, and, on information and belief, possess the same or similar statistics. For example, *ROS* offers three levels of backpacks with increasing capacity, corresponding to those in *BATTLEGROUND*S.



BATTLEGROUND Backpacks providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively



ROS Backpacks providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively

The different levels of backpacks are expressed similarly across both games. For example, the “Level 1” and “Level 2” backpacks in both games are similarly contoured. The “Level 3” backpacks in both games are much rounder and noticeably distinct from other backpacks. On information and belief, Defendants copied PUBG’s expressive depictions of the backpacks identified above where other depictions could have been used. As another example, *ROS* offers a full-body “Ghillie Suit” that camouflages a player like the full-body “Ghillie Suit” in BATTLEGROUND.



Ghillie Suit in BATTLEGROUND



Ghillie Suit in *ROS*



Character wearing Ghillie Suit in *BATTLEGROUNDS*



Character wearing Ghillie Suit in *ROS*

As another example, *ROS* offers various types of pants, shirts, shoes, jackets, hats, gloves, masks, glasses, goggles that can be worn by characters, all of which correspond to similar items in *BATTLEGROUNDS*. This type of clothing allows characters to be depicted in everyday outfits rather than in traditional combat gear. Whereas other video games use only traditional military uniforms, the availability of everyday street clothing as well as military gear in both *BATTLEGROUNDS* and *ROS* furthers each game's conceit of different types of people being forced to fight one another rather than the traditional video game use of traditional soldiers in a warzone.



Examples of clothing in BATTLEGROUNDS





Examples of clothing in ROS

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

75. **Character Configuration.** The configuration of characters in *ROS* is substantially similar to that of characters in *BATTLEGROUNDS*. The organization and capacity of slots for holding items on a character's body in *ROS* are identical to those in *BATTLEGROUNDS*, exception that the *ROS* configuration has one less waist slot. The significance of this variation is very minor, however, because it is largely negated by another adjustment, *i.e.*, grenades occupy a waist slot in *BATTLEGROUNDS* but come equipped (without occupying any configurable slot) in *ROS*. Additionally, in *ROS* a frying pan may be placed over a character's butt by assigning it to the fist slot, just as in *BATTLEGROUNDS*.



Character Configuration in BATTLEGROUNDS



Character Configuration in ROS

76. **Consumables.** The consumable resources in *ROS* are substantially similar to those in BATTLEGROUNDS. Each game has a similar assortment of such items, which are depicted similarly, operate similarly, and, on information and belief, possess the same or similar statistics. Every consumable item in *ROS* has a direct counterpart in BATTLEGROUNDS, and BATTLEGROUNDS has only one consumable item (a painkiller depicted as a prescription pill bottle) that lacks a direct counterpart in *ROS*. For example, each game offers a drink that boosts health and is depicted as a can of everyday beverage which everyday logic suggests would be unable to heal wounds but is used instead in both games to comically provide a non-traditional method of restoring health. The shared use of this non-traditional health boost demonstrates that Defendants

1 copied PUBG’s expressive depiction of a health boost in order to evoke the same feeling and
2 experience felt by players in BATTLEGROUNDS.



7 “Energy Drink” in BATTLEGROUNDS



11 “Sports Drink” in ROS

12
13 As another example, each game offers a bandage, a first aid kit, and a medical kit that may be used
14 to restore health following injury.



20 Bandage, First Aid Kit, and Med Kit in BATTLEGROUNDS



25 Bandage, First Aid Kit, and Med Kit in ROS

26 As another example, both games offer a syringe that fills the player’s boost bar and can be found
27 only in air-dropped supply boxes.



Adrenaline Syringe in BATTLEGROUND

Cardio Tonic Syringe in *ROS*

As another example, both games offer a fuel container that can be used to refuel vehicles.



Gas Can in BATTLEGROUND

Fuel Barrel in *ROS*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

77. **Vehicles.** The vehicles in *ROS* are substantially similar to those in BATTLEGROUND. Each game has a similar assortment of vehicles, which are depicted similarly and, on information and belief, possess the same or similar statistics. For example, both games offer a motorcycle.



Motorcycles in BATTLEGROUNDS



Motorcycle in ROS

As a further example, both games use Jeeps that share the same basic structure, including open-air seating and metal bars at the front of the car that can be used as weapons against pedestrian opponents.



UAZ in BATTLEGROUNDS



Jeep in *ROS*

As a further example, both games also use sedans that are farcically unequipped for and misplaced in the battlefields depicted in each game.



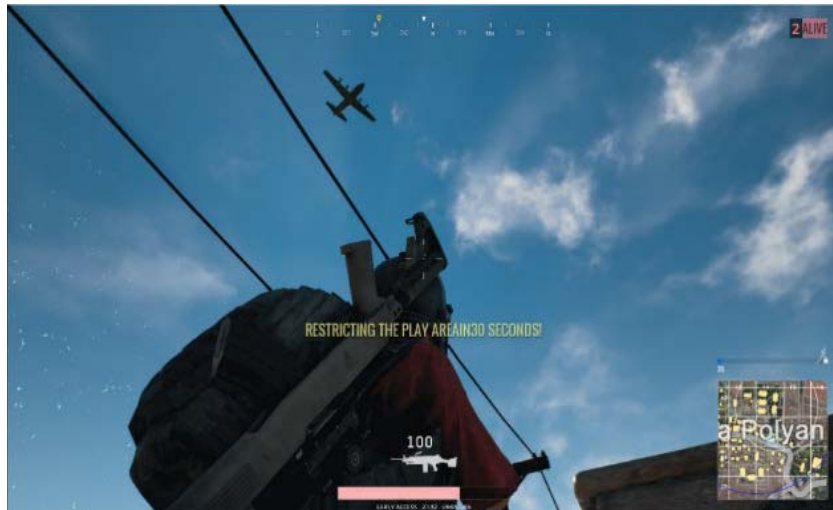
Vehicle in *BATTLEGROUNDS* with vehicle boost bar depicted under vehicle fuel bar



Vehicle in *ROS* with vehicle boost bar depicted under vehicle fuel bar

1 The foregoing are selected representative examples and not an exhaustive catalogue of the large
2 number of similarities.

3 78. **Air-Dropped Supply Boxes.** *ROS* features air-dropped supply boxes that are
4 substantially similar to those in *BATTLEGROUNDS*. As in *BATTLEGROUNDS*, in *ROS*, the
5 supply boxes are dropped from an aircraft, which can be heard by the players before the supply
6 boxes drop down. The supply boxes in *ROS* are depicted in a different color combination than those
7 in *BATTLEGROUNDS*, but the *ROS* supply boxes mimic their *BATTLEGROUNDS* counterparts
8 in all other respects. For example, the supply boxes in both games are covered in tarps and let out
9 visually dramatic plumes of red smoke after landing. On information and belief, Defendants copied
10 *PUBG*'s expressive depictions of the air-drop area where other depictions could have been used for
11 the purpose of evoking the same iconic air-drop experience depicted in *BATTLEGROUNDS*.



22 Aircraft That Drops Supply Boxes in *BATTLEGROUNDS*



Aircraft That Drops Supply Boxes in ROS



Supply Box With Red Smoke After Landing in BATTLEGROUNDS



Supply Box With Red Smoke After Landing in ROS



Supply Box in BATTLEGROUNDS



Supply Box in ROS

79. **Bombardment Zone.** *ROS* includes a bombardment zone feature that is substantially similar to the bombardment zone feature in *BATTLEGROUNDS*. As in *BATTLEGROUNDS*, the bombardment zone in *ROS* periodically spawns and is depicted by a red-shaded area superimposed on the miniature play area map within the play screen. As in *BATTLEGROUNDS*, players in *ROS* receive a warning message about the bombardment zone, and during bombardments interior spaces away from windows within buildings are safe.



Bombardment Zone indicated by red shading on maps in *BATTLEGROUNDS*



Bombardment Zone indicated by red shading on maps in *ROS*

80. **Shrinking Gameplay Area.** *ROS* includes a shrinking gameplay area feature that is substantially similar to the shrinking gameplay area feature in *BATTLEGROUNDS*. As in *BATTLEGROUNDS*, the shrinking gameplay area in *ROS* is depicted by a white circle on the gameplay area map. In both games, the circle shrinks in iterations, with each iteration encompassing one-third of the previous area. Both games also display a timer that warns players when the next shrink will occur.



Shrinking circle and timer depicted in *BATTLEGROUNDS*



Mini-map showing shrinking blue circle indicating restricted area in *BATTLEGROUNDS*



Shrinking circle and timer depicted in ROS

81. **“Winner Winner Chicken Dinner.”** On information and belief, when a player emerges victorious at the end of ROS, his or her screen displays “WINNER WINNER CHICKEN DINNER,” the same catchphrase that was creatively selected by PUBG to congratulate winners of BATTLEGROUNDS and that has become emblematic of BATTLEGROUNDS. The phrase is displayed in all capital letters in both games.



Sample victory screen display in BATTLEGROUNDS



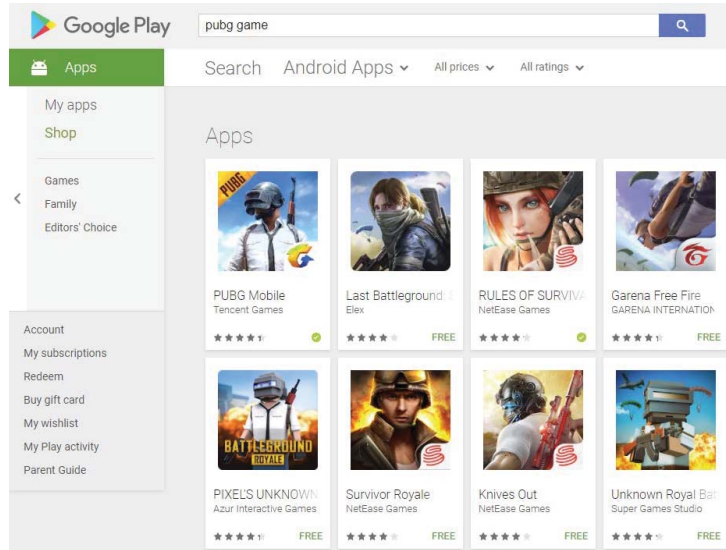
Sample victory screen display in *ROS*

Additionally, in *ROS*, the final screen of the game for all players displays the bust of a chicken. The chicken is depicted in the lower-right area of the screen, both for the winner of the game (as depicted above) and for the other players (as depicted below). On information and belief, Defendants' decision to include chicken imagery in the concluding screen display of *ROS* was made for the sole purpose of evoking the iconic "Winner Winner Chicken Dinner" concluding emblem of BATTLEGROUNDS.

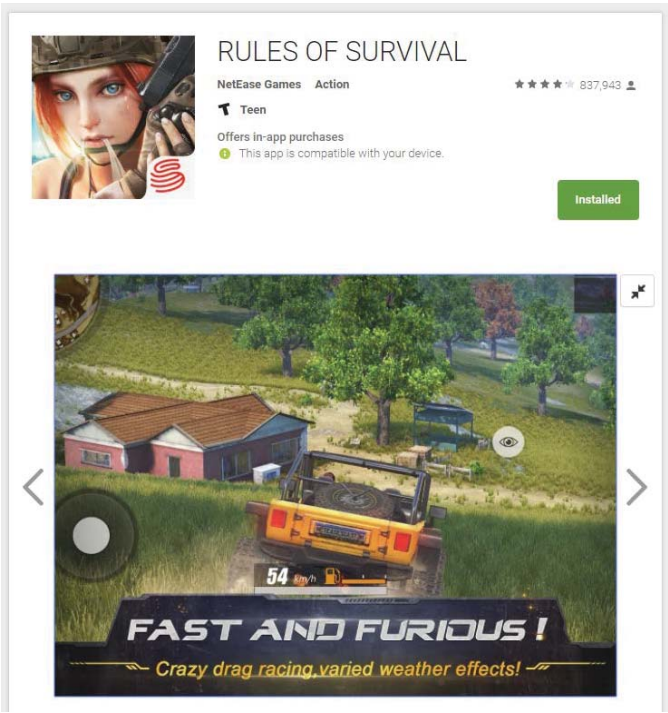


Sample game conclusion screen for player who did not win in *ROS*

82. **Advertising, Marketing and Promotional Materials.** On information and belief, Defendants have advertised, marketed and/or promoted *ROS* in a manner intended to confuse consumers into believing that *ROS* is affiliated with or otherwise related to BATTLEGROUNDS. These actions are evidenced by the relationship in the Android Google Play Store and Apple App Store between *ROS* and BATTLEGROUNDS, the similarities between the appearance and description of *ROS* and BATTLEGROUNDS and the use of images unique to BATTLEGROUNDS on the *ROS* Facebook page. For example, within the Google Play Store, *ROS* appears as the third result when searching for “PUBG Game” and is promoted using vehicles similar to those in BATTLEGROUNDS.

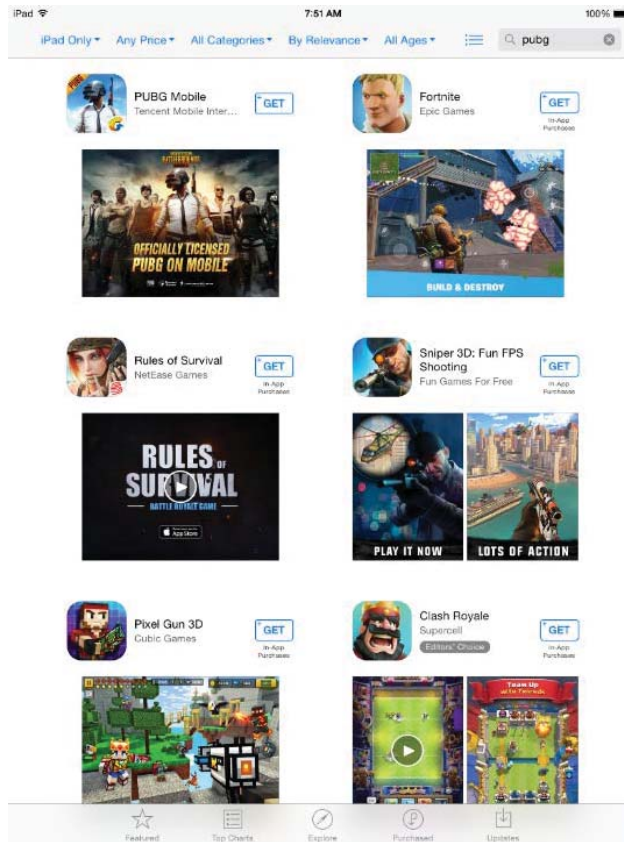


Google Play Store Results for Term “PUBG Game”

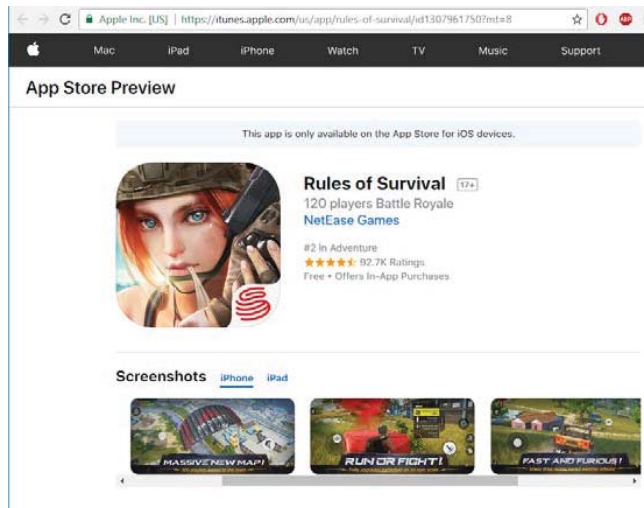


Use of Jeep in Google Play Store Description of *ROS*

Further, in the Apple App Store *ROS* appears as the third result when searching for “PUBG” and is promoted using depictions of parachutes, vehicles and supply boxes used in BATTLEGROUNDS.



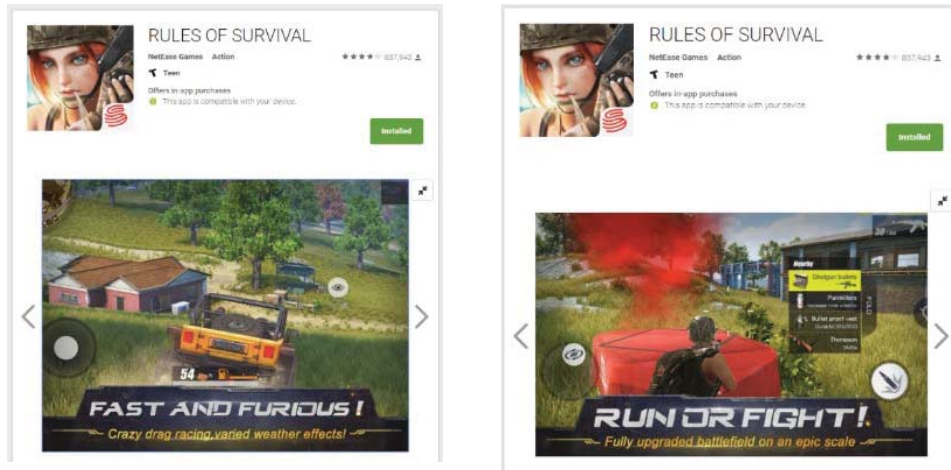
Apple App Store Results for Term "PUBG Game"



Use of Parachutes, Supply Box with Red Smoke and Jeep in Apple App Store Description of *ROS*

Defendants have also advertised, marketed and promoted *ROS* on Facebook using imagery and

expressions reminiscent of those created for BATTLEGROUND. For example, the *ROS* Facebook page advertises vehicles, supply boxes, locations and weapons unique to BATTLEGROUND. Further, the *ROS* Facebook page uses imagery and advertisements that evoke the “Winner Winner Chicken Dinner” messaging used in BATTLEGROUND.



Vehicles and Supply Boxes in *ROS* Advertising



Frying Pan in *ROS* Advertising

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Evocations of “Winner Winner Chicken Dinner” in *ROS* Advertising

Defendants have also advertised *ROS* using vehicles and locations that do not appear in *ROS* but do appear in *BATTLEGROUNDS* (ex. a two-seater buggy, a four-propeller military aircraft, power plant with a single cooling tower).



Two-Seater Buggy and Power Plant with Single Cooling Tower in *ROS* Advertising



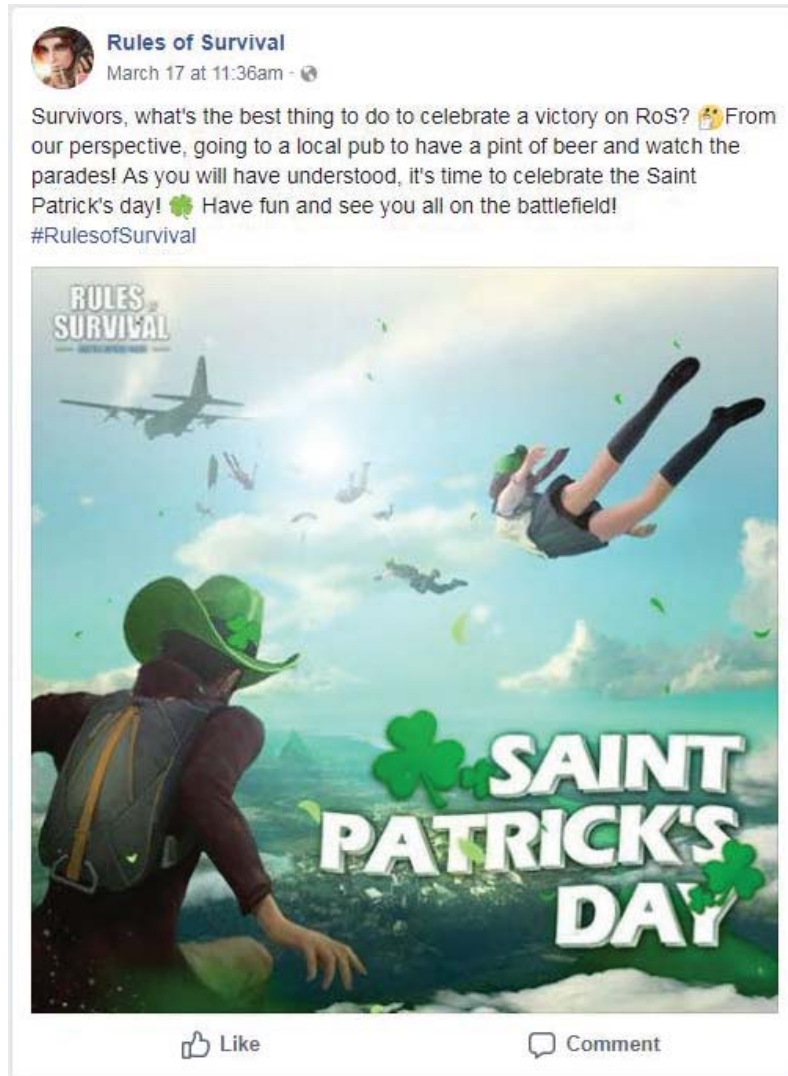
Two-Seater Buggy in *BATTLEGROUNDS*



Power Plant with Two Cooling Towers in ROS



Power Plant with One Cooling Tower in BATTLEGROUNDS



Four-Propeller Military Aircraft in *ROS* Advertising

Copying in *Knives Out* Game

83. ***Knives Out***: *Knives Out* (“*KO*”) is a video game for mobile devices that was made and released by Defendants. On information and belief, *KO* was released in the United States on or about November 3, 2017.

84. On information and belief, Defendants created *KO* by copying BATTLEGROUNDS and with the intention of creating a version of BATTLEGROUNDS for mobile devices.

85. On information and belief, Defendants intended to create consumer confusion as to

the source of *KO* and intended to cause consumers to believe, incorrectly, that *KO* had been developed by PUBG. On information and belief, Defendants intended to misappropriate consumer goodwill toward PUBG in order to market and gain economic benefit from *KO*.

86. On information and belief, there has in fact been confusion in the marketplace as to the source and origin of *KO*, with consumers believing, incorrectly, that *KO* was developed by PUBG. For example, *KO* has been referred to in the marketplace as “Mobile PUBG” or “PUBG Mobile”:



MOBILE PUBG - Knives Out - Solo Adventures #1

BeachBanana • 4.8K views • 1 month ago

Subscribe for more videos: https://www.youtube.com/channel/UCF3rEszvE9AGIS0Mm6VwSng?sub_confirmation=1



"Knives Out" The PUBG Mobile Experience

Pixel Enemy • 1.2K views • 1 month ago

"Knives Out" The **PUBG Mobile** Experience Subscribe: https://www.youtube.com/subscription_center?add_user=pixelenemy **Knives**

4K



PUBG Mobile (Knives Out)

AgentVenom SG • 1.5K views • 2 months ago

Me and GH05T SG attempt to play **Knives Out!** Glitches at the end caused us to loose... whoops! A spoiler! *****Links



Knives Out Mobile PUBG Game Gameplay

sonicOring • 847 views • 2 months ago

Knives Out Mobile PUBG Game Gameplay app game by NetEase Games on iOS, iPhone, iPad, Android Gameplay Trailer. HD

Sampling of player videos available on YouTube.com
(https://www.youtube.com/results?search_query=pubg+knives+out)

87. On information and belief, commentators in the industry have characterized *KO* as a

1 copy, or “knockoff” of BATTLEGROUNDS. For example, one commentator called *KO* “a damn
 2 near carbon copy” of BATTLEGROUNDS that “mimic[s]” BATTLEGROUNDS “to an
 3 uncomfortable degree.” [http://toucharcade.com/2017/11/14/playerunknowns-battlegrounds-mobile-](http://toucharcade.com/2017/11/14/playerunknowns-battlegrounds-mobile-knockoff-knives-out/)
 4 [knockoff-knives-out/](http://toucharcade.com/2017/11/14/playerunknowns-battlegrounds-mobile-knockoff-knives-out/). Other commentators have noted that “NetEase’s strategy of quickly launching
 5 multiple PUBG clones appears to be paying off.”
 6 <http://www.pocketgamer.biz/asia/news/67212/knives-out-100-million-downloads/>; *see also*
 7 <http://www.droidgamers.com/2017/11/24/pubg-knives-netease-android/> (“Just when you thought
 8 you had enough Player Unknown’s Battlegrounds mobile clones by NetEase, you get another.
 9 Knives Out is out now on Google Play, and it looks remarkably similar to last week’s Rules of
 10 Survival.”).

11 88. On information and belief, the *KO* app can be downloaded to a mobile device free of
 12 charge, and the *KO* game can be played free of charge. On information and belief, Defendants have
 13 released *KO* into the marketplace at or below cost for the purpose of gaining market share before
 14 PUBG release BATTLEGROUNDS for mobile devices.

15 89. *KO* contains many elements that are substantially similar to copyrightable elements of
 16 creative audiovisual expression in BATTLEGROUNDS, including at least the following.

17 90. **Total Look and Feel.** The overall look, feel, and audiovisual style of *KO* closely
 18 mimic the stylized realism of BATTLEGROUNDS.

Knives Out

BATTLEGROUNDS





91. **Overall Gameplay.** The overall look and feel of gameplay in *KO* very closely matches that of BATTLEGROUNDS. For example, the narrative arc of the game; the audio and visual representations of movement, shooting, and healing; and the battle formats presented (*e.g.*, player versus everyone and small teams of five players versus everyone, with 100 players per game) all correspond to those of BATTLEGROUNDS.

92. **Pre-play Area.** As in BATTLEGROUNDS, the *KO* audiovisual experience begins with a pre-play area where players can meet each other and try out weapons while waiting for enough players to join. While prior games have used pre-play screens and areas, the expressive depiction of a pre-play area in BATTLEGROUNDS, which encourages players to interact with another, use weapons, and explore gameplay mechanics is unique. On information and belief, Defendants copied PUBG's expressive depictions of the pre-play area where other depictions could have been used for the purpose of evoking the same pre-play experience depicted in BATTLEGROUNDS.

Pre-play area in *KO*

93. **Play Area Map.** Like BATTLEGROUNDS, *KO* provides a map defining the area of play, and the *KO* map is substantially similar to the BATTLEGROUNDS map. The BATTLEGROUNDS map and *KO* map each comprises a square-ish mass of land with primary and secondary islands, a major waterway, and bridges. Both maps feature mountainous topography which is depicted as if taken using a reconnaissance satellite, yellow gridlines, yellow featured location indicators and white lettered descriptions of those features areas. Although maps have been used in prior games, the depiction of the map in *KO* is strikingly similar to the depiction of the map in BATTLEGROUNDS. On information and belief, Defendants copied PUBG's expressive depiction of the map where another depiction could have been used.



BATTLEGROUNDS Play Area Map



KO Play Area Map

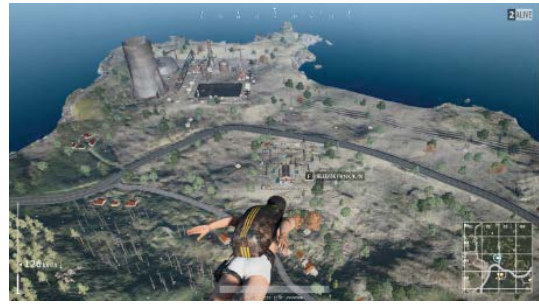
94. **Scenes and Locations.** Many of the locations, structures, landscapes, and other features within the *KO* play area closely correspond to those within the BATTLEGROUNDS play area. For example, the BATTLEGROUNDS play area and the *KO* play area each contain at least areas containing ruins, a port with shipping containers, a power plant, a warehouse area, and a wetland area. These areas in *KO* are strikingly similar to those in BATTLEGROUNDS. On

information and belief, Defendants copied PUBG's expressive depictions of the scenes and locations identified below where other depictions could have been used for the purpose of evoking the same gameplay experience depicted in BATTLEGROUNDS.

Knives Out

BATTLEGROUNDS





The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

95. **Buildings.** The *KO* play area contains numerous buildings that are substantially similar to buildings in BATTLEGROUNDS. Although buildings have been used in prior games, the facades and layouts of the buildings in *KO* are strikingly similar to those in BATTLEGROUNDS. On information and belief, Defendants copied PUBG's expressive depictions of the buildings identified below where other depictions could have been used for the purpose of evoking the same gameplay experience depicted in BATTLEGROUNDS. For example, each game contains a two-story hexagonal tower with stairs, windows, rooflines, and overall structure of the same shapes, proportions, and layouts.



Two-story hexagonal tower in BATTLEGROUNDS

Two-story hexagonal tower in *KO*

As another example, each game contains a two-home cluster in which the homes' masses, windows, doors, rooflines, balconies, patios, and overall structure are the same shapes, proportions, and layouts in both games.

Pair of homes in *BATTLEGROUNDS*Pair of homes in *KO*

1 As another example, each game contains a two-story home with a garage, garage roof deck, and
 2 masses of the same shapes, proportions, and layouts.



16 Two-story home in BATTLEGROUNDS



23 Two-story home in *KO*

24 Garage roof deck on two-story home in BATTLEGROUNDS

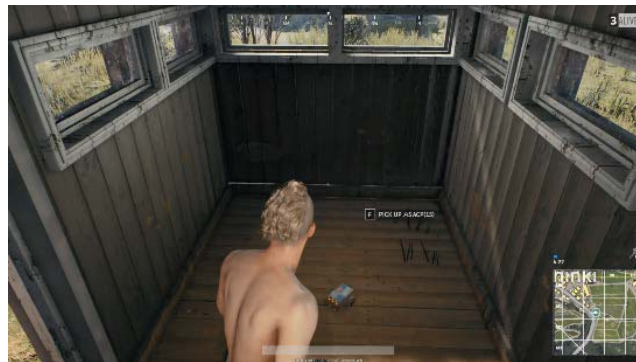
Garage roof deck on two-story home in *KO*

As another example, each game contains a small, freestanding, single-story angular structure with a tiled roof, a single door, and a row of vertically short, horizontally elongated windows that extends around all the walls at approximately eye-level.

Exterior of structure with eye-level windows in *BATTLEGROUNDS*



Exterior of structures with eye-level windows in *KO*



Interior of structure with eye-level windows in *BATTLEGROUNDS*



Interior of structure with eye-level windows in *KO*

As another example, each game contains a three-story residential building with masses, rooflines, entrances, windows, and roof decks, of the same shapes, proportions, and layouts, as well as similar façades and staircases.



Three-story residential building in BATTLEGROUNDS



Three-story residential building in *KO*



Roof deck on three-story residential building in BATTLEGROUNDS



Roof deck on three-story residential building in *KO*



Staircase in three-story residential building in *BATTLEGROUNDS*



Staircase in three-story residential building in *KO*

As another example, each game contains an elongated single-story building with mass, windows, entrances, and steps of similar shapes, proportions, and layouts. Further, both contain a second door on the left side of the building.

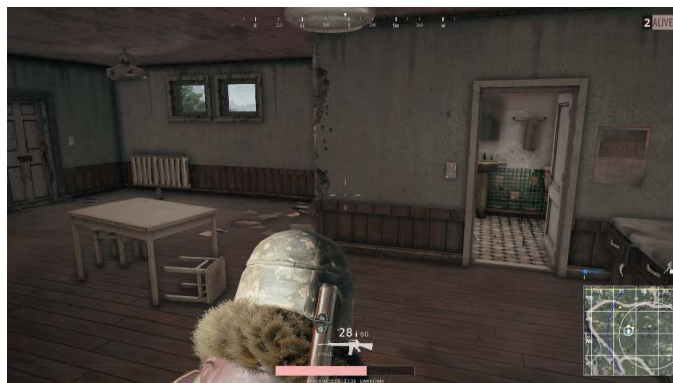


Single-story building in BATTLEGROUNDS



Single-story building in *KO*

Further, both houses contain vacated and rundown interiors with wooden floors and a bathroom adjacent to the front door.



Interior of single-story building in BATTLEGROUNDS

Interior of single-story building in *KO*

As another example, each game contains a plain rectangular garage with smooth façade where a four-passenger vehicle is respawned.

Rectangular garage in *BATTLEGROUND*SRectangular garage in *KO*

As another example, each game contains a light brown warehouse with a textured façade, gable roof, and triangular pediment above the entrance.

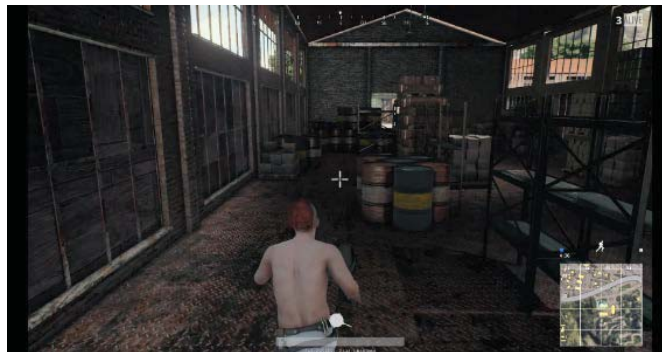


Warehouse in BATTLEGROUNDS



Warehouse in *KO*

Further, both warehouses contains wooden crates stacked along the walls and in the middle of the room.



Wooden crates in warehouse in BATTLEGROUNDS



Wooden crates in warehouse in *KO*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

96. **Air Jump.** Play begins in *KO* with a transport aircraft from which players jump, freefall, and parachute into the play area. Similar to *BATTLEGROUND*s, the route of the aircraft is shown in a mini-map, and players can choose to jump at any point. Both *KO* and *BATTLEGROUND*s use similar types of vehicles, similar expressions of a satellite-view map depicting yellow gridlines as well as various locations and their names, and similar expressions to indicate the user's location on the map. On information and belief, Defendants, having recognized the sheer volume of misappropriation in *KO*, made a minor change and replaced the originally used military-style transport airplane with a military-style transport helicopter. On information and belief, Defendants copied *PUBG*'s expressive depictions of an Air Jump where other depictions could have been used.



Transport Aircraft in *BATTLEGROUND*s



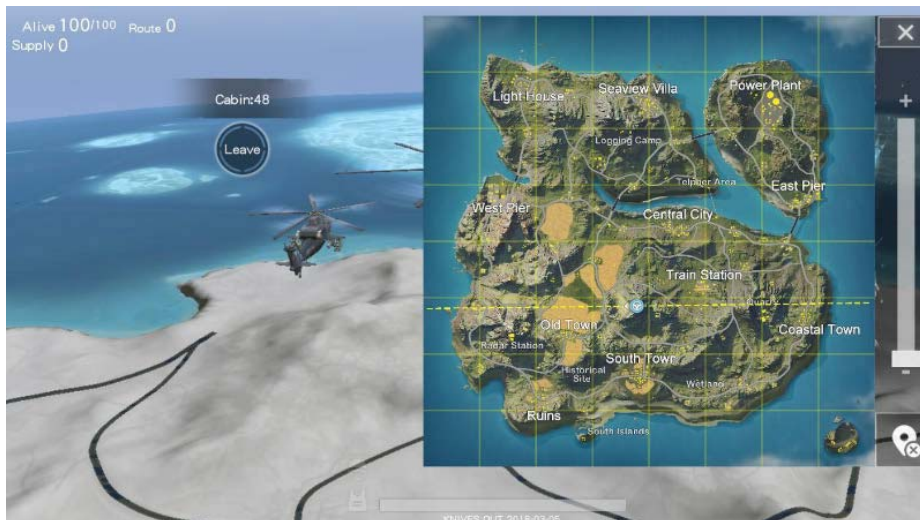
Original Transport Aircraft in *KO*



Modified Transport Aircraft in *KO*



Aircraft Route Map in PUBG



Airplane Route Map in *KO*, with location of aircraft shown by circular symbol “” and direction of travel shown by arrow symbol “”

97. **Freefall and Parachuting.** As in BATTLEGROUNDS, following the jump from the aircraft, a player can choose to freefall or parachute toward the ground. The depiction of freefall in *KO* is strikingly similar to the depiction of freefall in BATTLEGROUNDS. Further, *KO* uses the

1 same depiction of a parachute as used in BATTLEGROUNDS. On information and belief,
 2 Defendants copied PUBG's expressive depictions of freefall and parachuting, where other depictions
 3 could have been used, solely for the purpose of evoking the same introductory experience felt by
 4 players of BATTLEGROUNDS.

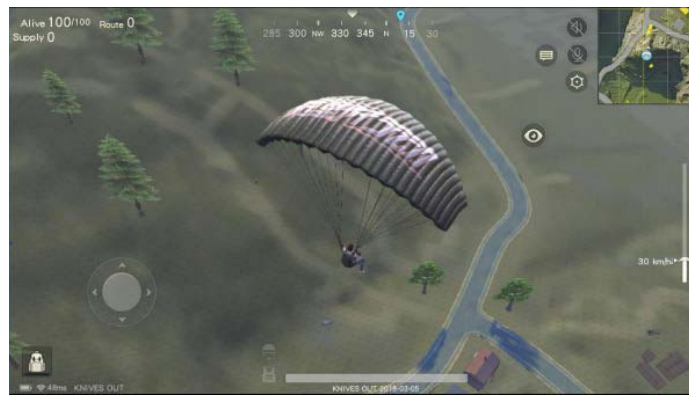


Freefall in BATTLEGROUNDS

Original Freefall in *KO*Modified Freefall in *KO*



Parachuting in BATTLEGROUNDS

Parachuting in *KO*

98. **Weapons.** The firearms, melee weapons, and throwable weapons in *KO* are substantially similar to those in BATTLEGROUNDS. In general, and on information and belief, each weapon in *KO* corresponds to a weapon in BATTLEGROUNDS that is the same type of weapon, inflicts the same or a similar amount of damage per hit, has a similar appearance, has a similar operation, has similar attachments, and has a similar name. Further, the assortment of weapons and weapon types available in *KO* are substantially similar to those in BATTLEGROUNDS, as explained in further detail below.

99. **Firearms.** The firearms in *KO* are substantially similar to those in BATTLEGROUNDS, having the same or similar type, appearance, and, on information and belief, performance statistics (*e.g.*, load capacity and damage inflicted per discharge). For example, the

AKM assault rifle in BATTLEGROUNDS and the AK-47 assault rifle in *KO* have substantially similar appearances and performance statistics. Although weapons have been used in prior games, on information and belief, Defendants have copied PUBG's graphical, statistical and audio expressions of the weapons identified below where other graphical, statistical and audio expressions could have been used. For example, note the similarity of the wood grain pattern on the stock, fore grip and handles of both AK-47s.



AKM assault rifle in BATTLEGROUNDS



AK-47 assault rifle in *KO*

As another example, the SCAR-L assault rifle in BATTLEGROUNDS and the S-ACR assault rifle in *KO* have substantially similar appearances and performance statistics. Note the same color scheme of the two rifles. Both rifles are available in different color schemes, but Defendants chose the color scheme of their S-ACR rifle to closely mimic the appearance of the SCAR-L rifle in BATTLEGROUNDS.



SCAR-L assault rifle in BATTLEGROUNDS



S-ACR assault rifle in *KO*

As another example, the M16A4 assault rifle in BATTLEGROUNDS and the M4A1 assault rifle in *KO* have substantially similar appearances and performance statistics.



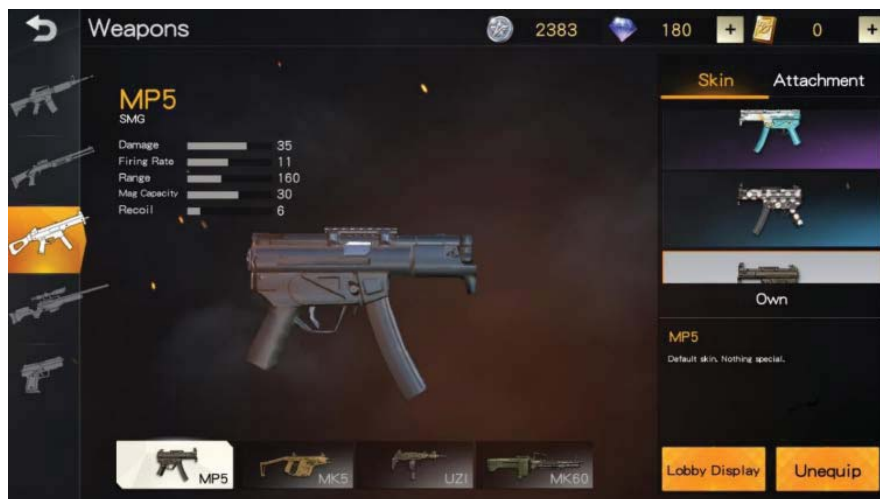
"M416" Assault Rifle in BATTLEGROUNDS

M4A1 assault rifle in *KO*

As another example, the UMP9 submachine gun in BATTLEGROUND and the MP5 submachine gun in *KO* have substantially similar appearances and performance statistics.



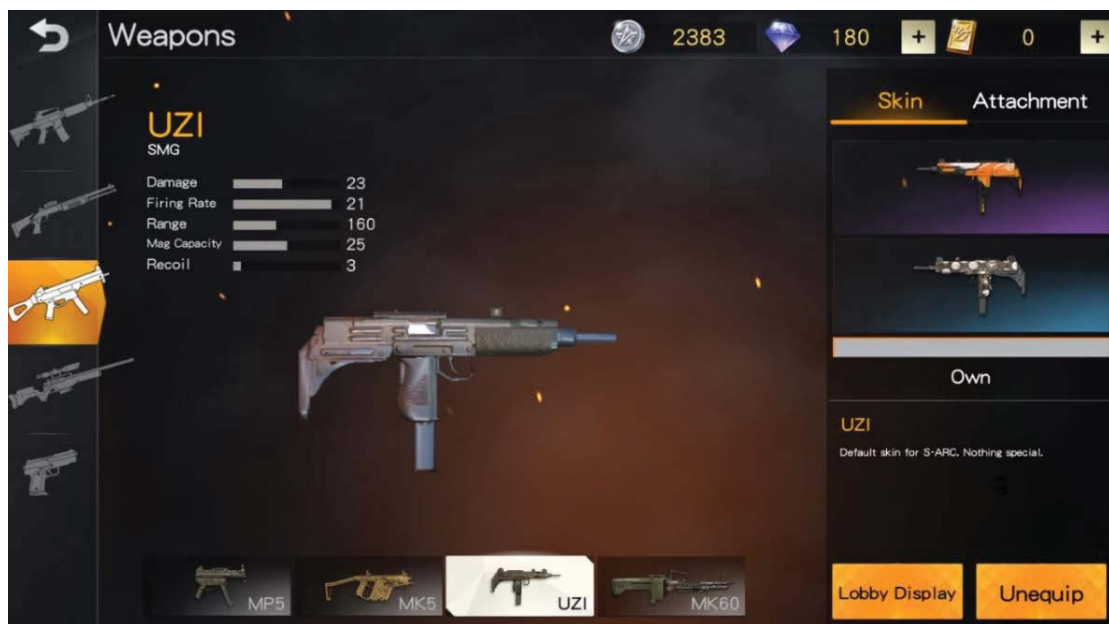
UMP9 submachine gun in BATTLEGROUND

MP5 submachine gun in *KO*

As another example, the Micro Uzi submachine gun in BATTLEGROUND and the Uzi submachine gun in *KO* have substantially similar appearances and performance statistics.



Micro Uzi submachine gun in BATTLEGROUND

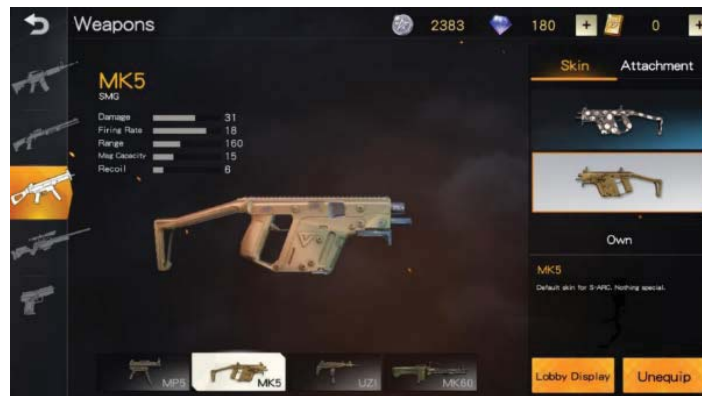


Uzi submachine gun in *KO*

As another example, the Vector submachine gun in BATTLEGROUND and the MK5 submachine gun in *KO* have substantially similar appearances and performance statistics.



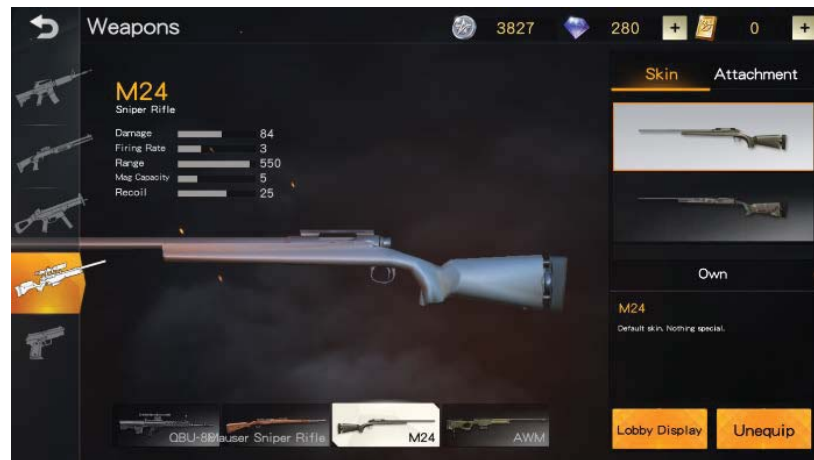
Vector submachine gun in BATTLEGROUND

MK5 submachine gun in *KO*

As another example, the M24 sniper rifle in BATTLEGROUNDS and the M24 sniper rifle in *KO* have substantially similar appearances and performance statistics. In particular, both depictions of this rifle share the same stock with an extended recoil pad.



M24 sniper rifle in BATTLEGROUNDS

M24 sniper rifle in *KO*

As another example, the AWM sniper rifle in BATTLEGROUNDS and the AWM sniper rifle in *KO* have substantially similar appearances and performance statistics. Note the use of the same color scheme in the *KO* version, despite the fact that the AWM rifle is available in different color

schemes.



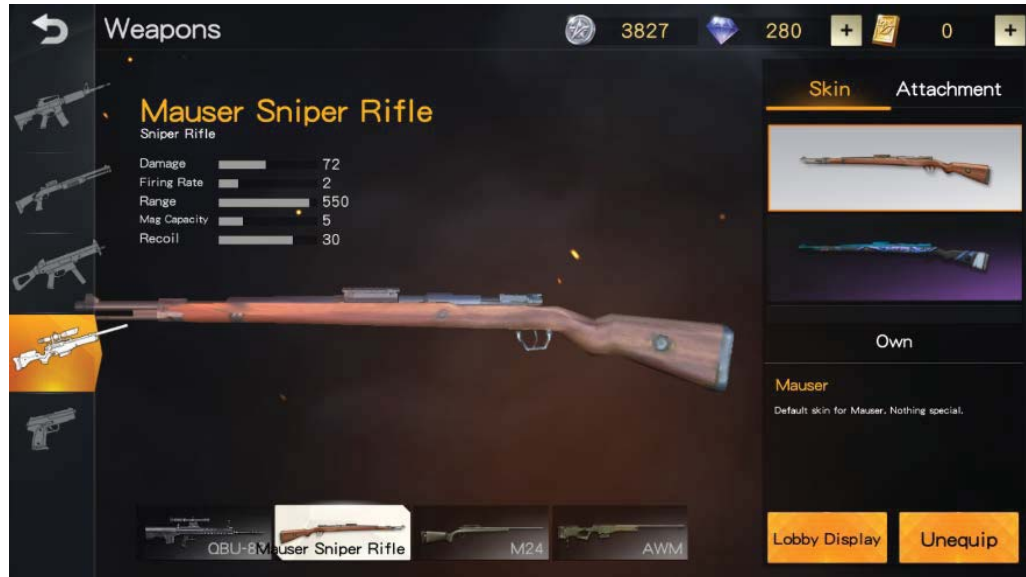
AWM sniper rifle in BATTLEGROUNDS



AWM sniper rifle in *KO*



Mauser sniper rifle in BATTLEGROUNDS

Mauser sniper rifle in *KO*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

100. **Attachments and Modifications for Firearms.** The attachments and modifications for firearms in *KO* are substantially similar to those in BATTLEGROUNDS, having the same or similar type, appearance, and, on information and belief, performance statistics. For example, both games offer muzzle attachments in the form of silencers/suppressors, compensators, and flash hiders; both games offer vertical and horizontal grip attachments of similar types; both games offer similar assortments of magazines and stocks, such as quick-draw and extended magazines; and both games offer similar assortments of scopes, including a “holographic sight” that is depicted similarly in both games. Selected representative examples are shown below.



“Red Dot Sight” in BATTLEGROUND



“Holographic Sight” in *Knives Out*



Stock in BATTLEGROUND



Stock in *Knives Out*



Extended Magazine for Submachine Guns in BATTLEGROUND



Submachine Gun Extended Magazine for *Knives Out*



Suppressor, Compensator, and Flash Hider for Sniper Rifles in BATTLEGROUNDS

Suppressors, Compensator, and Flash Hider for Sniper Rifles in *Knives Out*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

101. **Melee Weapons.** The melee weapons in *KO* are substantially similar to those in BATTLEGROUNDS. For example, both games offer cookware in the shape of a pan. The use of cookware as a melee weapon is highly uncommon in shooter type games, and Defendants' use of a pot lid with the same shape and properties as the frying pan introduced in BATTLEGROUNDS was intended to misappropriate Plaintiff PUBG's unique expression.



Frying Pan in BATTLEGROUNDS

Pot Cover in *KO*

102. **Throwable Weapons.** The throwable weapons in *KO* also are substantially similar to those in BATTLEGROUNDS. Each game has at least three grenades: a frag grenade, a stun grenade, and a smoke grenade. The grenades in *KO* are depicted similarly to the frag grenade in BATTLEGROUNDS. The BATTLEGROUNDS frag grenade and the frag grenade used in *KO* are each depicted as having a removable pin, a lever and a rounded body with two lines of writing. On information and belief, Defendants copied PUBG's expressive depictions of the grenades identified above where other depictions could have been used.



Frag Grenade in BATTLEGROUNDS

Frag Grenade an in *KO*

103. **Armor.** The armor in *KO* is substantially similar to the armor in BATTLEGROUND. Each game has three levels of helmets and three levels of body armor, and these items are depicted similarly, operate similarly, and, on information and belief, provide the same levels of damage reduction.



BATTLEGROUND Helmets providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively



KO Helmets providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively

The different levels of helmets are expressed similarly across both games. For example, the “Level 1” helmet in both games is a motorcycle or scooter-style helmet which covers the top, back and sides of the wearer’s head. The “Level 2” helmet in both games is a camouflaged military helmet and covers the same areas of the wearer’s head as the “Level 1” helmet. Finally, the “Level 3” helmet in both games resembles a special forces helmet covers all sides of the wearer’s head including the front and has a shiny black appearance, and both include a visor. On information and belief, Defendants copied PUBG’s expressive depictions of the helmets identified above where other depictions could have been used.



BATTLEGROUND Body Armor providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively



KO Body Armor providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively

The different levels of armor are expressed similarly across both games. For example, the “Level 1” armor in both games is a snow-camouflaged vest with thin straps across the wearer’s shoulders, back and chest. The “Level 2” armor in both games is a thicker vest, with thicker straps and pouches on the chest and waistline. Finally, the “Level 3” armor in both games has metal clasps on the wearer’s shoulders and contains segmented sections across the chest of the wearer. On information and belief, Defendants copied PUBG’s expressive depictions of the armor identified above where other depictions could have been used. In addition to the armor described above, both games also provide a frying pan-type item for use as armor, as discussed further below.

104. **Frying Pan.** As explained above in paragraph 99, *KO* provides a pot lid that can be used both as a melee weapon and as armor, like the frying pan in BATTLEGROUND. The pot lid in *KO* is designed with the same shape and characteristics as the frying pan in BATTLEGROUND. As with the BATTLEGROUND frying pan, the pot lid provides medium damage output when used as a melee weapon and can deflect shots when in a character’s hand or on a character’s back (butt),

1 analogous to the frying pan in BATTLEGROUND. On information and belief, Defendants'
2 decision to include a pot lid as a melee weapon and armor item in *KO* was made for the sole purpose
3 of evoking the iconic frying pan emblem of BATTLEGROUND.



Frying pan in BATTLEGROUND



Pot cover in *KO*



Frying pan wielded as melee weapon in BATTLEGROUNDS



Pot cover wielded as melee weapon in *KO*



Frying pan worn as butt armor in BATTLEGROUNDS



Pot cover worn as butt armor in *KO*

105. **Clothing and Other Wearable Equipment.** The clothing and other items of wearable equipment in *KO* are substantially similar to those in *BATTLEGROUND*S. Each game has a similar assortment of such items, which are depicted similarly, operate similarly, and, on information and belief, possess the same or similar statistics. For example, *KS* offers three levels of backpacks with increasing capacity, corresponding to those in *BATTLEGROUND*S.



*BATTLEGROUND*S Backpacks providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively



KO Backpacks providing good damage reduction (Level 1), better damage reduction (Level 2), and best damage reduction (Level 3), respectively

1 The different levels of backpacks are expressed similarly across both games. For example, the
2 “Level 1” backpacks in both games are tan-colored and pear-shaped. The “Level 2” backpacks are a
3 both green and similarly pear shaped. Finally, the “Level 3” backpacks in both games are much
4 rounder and are camouflaged. On information and belief, Defendants copied PUBG’s expressive
5 depictions of the backpacks identified above where other depictions could have been used.
6 As another example, *KO* offers a full-body “Ghillie Suit” that camouflages a player like the full-
7 body “Ghillie Suit” in BATTLEGROUNDS.



“Ghillie Suit” in BATTLEGROUNDS



Character wearing Ghillie Suit in BATTLEGROUNDS



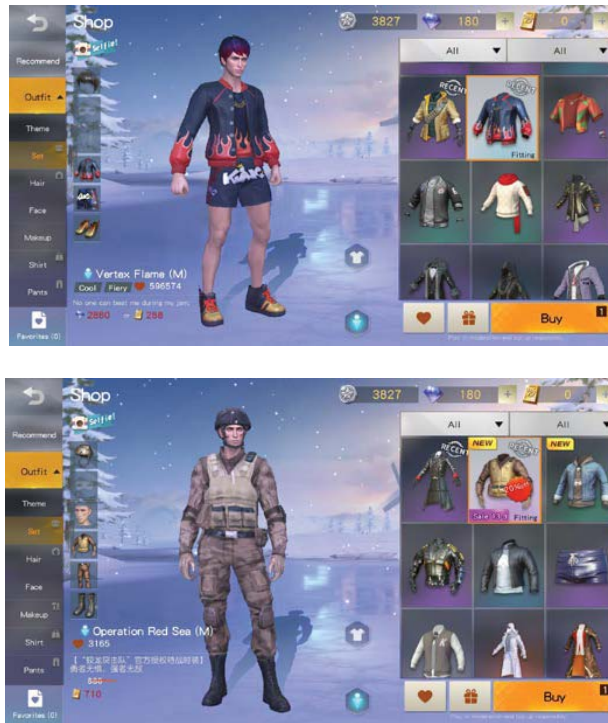
Character wearing green Ghillie Suit in *KO*

As another example, *KO* offers various types of pants, shirts, shoes, jackets, hats, gloves, masks, glasses, goggles that can be worn by characters, which correspond to similar items in BATTLEFIELDS. This type of clothing allows characters to be depicted in everyday outfits rather than in traditional combat gear. Whereas other video games use only traditional military uniforms, the availability of everyday street clothing as well as military gear in both BATTLEFIELDS and *KO* furthers each game's conceit of different types of people being forced to fight one another rather than the traditional video game use of traditional soldiers in a warzone.



Clothing in BATTLEGROUNDS





Clothing in *KO*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

106. **Character Configuration.** The configuration of characters in *KO* is substantially similar to that of characters in BATTLEGROUND. Each game provides two shoulder slots and two waist slots that may hold items. Additionally, in *KO*, a frying pan or pot lid may be placed over a character's butt by assigning it to a specific slot, just as in BATTLEGROUND.



Character Configuration in BATTLEGROUNDS

Character Configuration in *KO*

107. **Consumables.** The consumable resources in *KO* are substantially similar to those in BATTLEGROUNDS. Each game has a similar assortment of such items, which are depicted similarly, operate similarly, and, on information and belief, possess the same or similar performance statistics. Every consumable item in *KS* has a direct counterpart in BATTLEGROUNDS, and BATTLEGROUNDS has only two consumable items (a painkiller depicted as a prescription pill bottle and a syringe) that lack a direct counterpart in *KO*. For example, each game offers a drink that boosts health and is depicted as an everyday beverage which everyday logic suggests would be unable to heal wounds but is used instead in both games to comically provide a non-traditional

1 method of restoring health. The shared use of this non-traditional health boost demonstrates that
2 Defendants copied PUBG's expressive depiction a health boost in order to evoke the same feeling
3 and experience felt by players in BATTLEGROUNDS.



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10 "Energy Drink" in BATTLEGROUNDS

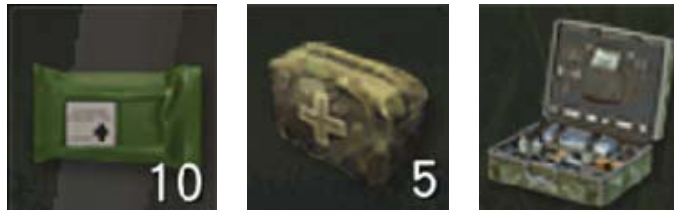


11
12
13
14
15 Health-restoring drink in *KO*

16 As another example, each game offers a bandage, a first aid kit, and a more fully equipped medical
17 box kit that may be used to restore health following injury. As shown below, these health restoration
18 features are each expressed using similar depictions across both games. In both games, the bandage
19 is expressed using a green sealed pouch with writing on the front. The first aid kit in both games is
20 depicted as a re-sealable, camouflaged pouch whereas the med kit in each game is expressed as a
21 flip-top box containing various combat medic tools and supplies:
22
23
24
25
26
27
28



Bandage, First Aid Kit, and Med Kit in BATTLEGROUNDS

Bandage, Medical (First Aid) Kit, and Medical Box in *KO*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

108. **Vehicles.** The vehicles in *KO* are substantially similar to those in BATTLEGROUNDS. Each game has a similar assortment of vehicles, which are expressed similarly, operate similarly, and, on information and belief, possess the same or similar performance statistics. For example, each game utilizes at least a buggy, a four door sedan and a motorcycle that share strikingly similar depictions. For example, the buggy in both games shares the same basic structure, including oversized wheels supporting a single seat, open-air roll cage:



Buggy in BATTLEGROUNDS

Buggy in *KO*

As a further example, both games also use generic mid-size 4-door family sedans that are farcically unequipped for and misplaced in the battlefields depicted in each game.



Sedan in BATTLEGROUNDS

Sedan in *KO*

Additionally, both games depict dual-sport motorcycles that are expressed using similarly placed rear-view mirrors, wheel covers, seats and exhaust pipes.

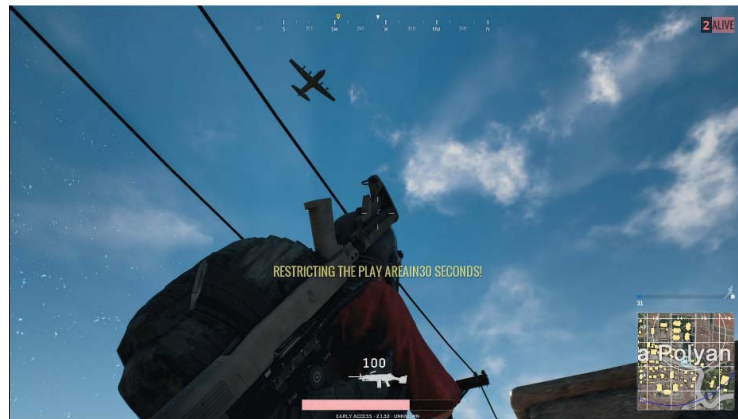


Motorcycle in BATTLEGROUNDS

Motorcycle in *KO*

The foregoing are selected representative examples and not an exhaustive catalogue of the large number of similarities.

109. **Air-Dropped Supply Boxes.** *KO* features air-dropped supply boxes that are substantially similar to those in BATTLEGROUNDS. As in BATTLEGROUNDS, in *KO*, the supply boxes are dropped from an aircraft, which can be heard by the players before the supply boxes drop down. The supply boxes in *KO* are depicted in a different color combination than those in BATTLEGROUNDS, but the *KO* supply boxes mimic their BATTLEGROUNDS counterparts in all other respects. For example, the supply boxes in both games are covered in tarps and let out visually dramatic plumes of red smoke after landing. On information and belief, Defendants copied PUBG's expressive depictions of the air drop where other depictions could have been used for the purpose of evoking the same iconic air-drop experience depicted in BATTLEGROUNDS.



Aircraft That Drops Supply Boxes in BATTLEGROUNDS



Aircraft That Drops Supply Boxes in *KO*



Loading Screen Showing Fixed-Wing Aircraft Dropping Supply Boxes in *KO*



Supply Box With Red Smoke After Landing in a Field of Wheat in BATTLEGROUNDS



Supply Box With Red Smoke After Landing in a Field in KO



Supply Box in BATTLEGROUNDS

Supply Box in *KO*

110. **Bombardment Zone.** *KO* includes a bombardment zone feature that is substantially similar to the bombardment zone feature in BATTLEGROUNDS. As in BATTLEGROUNDS, the bombardment zone in *KO* periodically spawns and is expressed as a red-shaded circular area superimposed on the miniature play area map within the play screen.



Bombardment Zone indicated by red circular shading on maps in BATTLEGROUNDS



Bombardment Zone indicated by red circular shading on maps in *KO*

111. **Shrinking Gameplay Area.** *KO* includes a shrinking gameplay area feature that is substantially similar to the shrinking gameplay area feature in BATTLEGROUNDS. As in BATTLEGROUNDS, the shrinking gameplay area in *KO* is expressed on the map by a white circle that is centered in a “safe area” to which players are directed. In both games, the circle shrinks in iterations, with each iteration encompassing one-third of the previous area. Both games also display a timer that warns players when the next shrink will occur. Additionally, both games express the boundary of the shrinking gameplay area as a shimmering translucent wall in the gameplay view. On information and belief, the shimmering translucent wall in *KO* originally was depicted in blue, as in BATTLEGROUNDS, but has been changed to orange.



Shrinking circle and timer depicted on map in BATTLEGROUNDS



Shrinking circle and timer depicted on map in KO

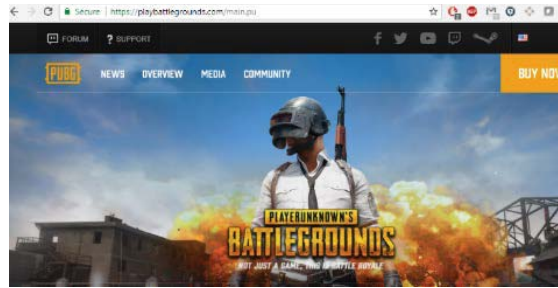


Boundary depicted as shimmering wall in gameplay view in BATTLEGROUNDS

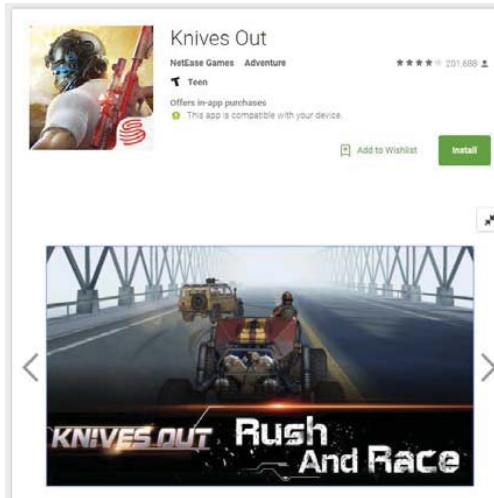


Boundary depicted as shimmering wall in gameplay view in *KO*

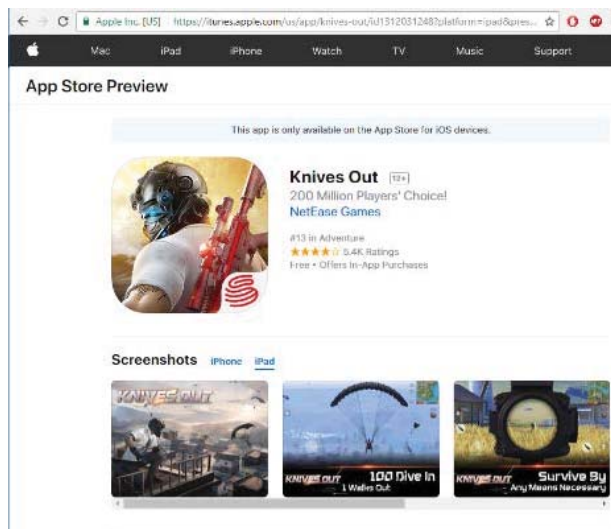
112. **Advertising, Marketing and Promotional Materials.** On information and belief, Defendants have advertised, marketed and/or promoted *KO* in a manner intended to confuse consumers into believing that *KO* is affiliated with or otherwise related to BATTLEGROUNDS. These actions are evidenced by the relationship in the Android Google Play Store and Apple App Store between *KO* and BATTLEGROUNDS, the similarities between the appearance and description of *KO* and BATTLEGROUNDS and the use of images unique to BATTLEGROUNDS on the *KO* Facebook page. For example, within the Google Play Store, *KO* uses a near-identical icon showing a male player in a white shirt, wearing a level 3 helmet with a rifle on his back and is advertised using a jeep and a buggy. In the Apple Play Store, *KO* is advertised using the iconic player in a white button up shirt and tie, level 3 helmet and rifle.



Icon for BATTLEGROUNDS from PUBG Website (<https://playbattlegrounds.com/main.pu>)



KO Icon in Google Play Store

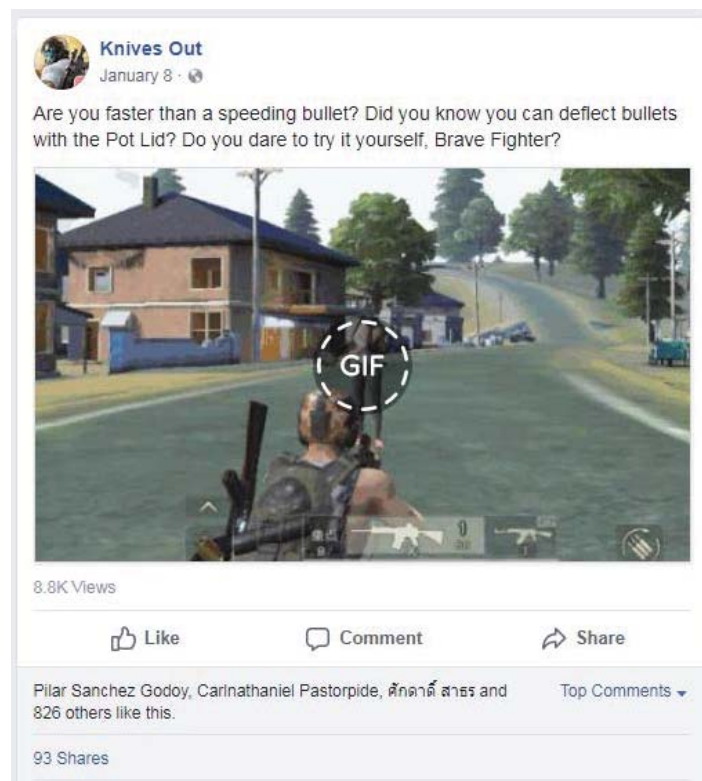


KO Icon in Apple App Store

113. Defendants have also advertised, marketed and promoted *KO* on Facebook using imagery and expressions reminiscent of those created for BATTLEGROUNDS. For example, the *KO* Facebook page expressly advertises and promotes “chicken dinner,” pot lids as weapons and certain vehicles which, on information and belief, appear in BATTLEGROUNDS but do not appear in *KO*.

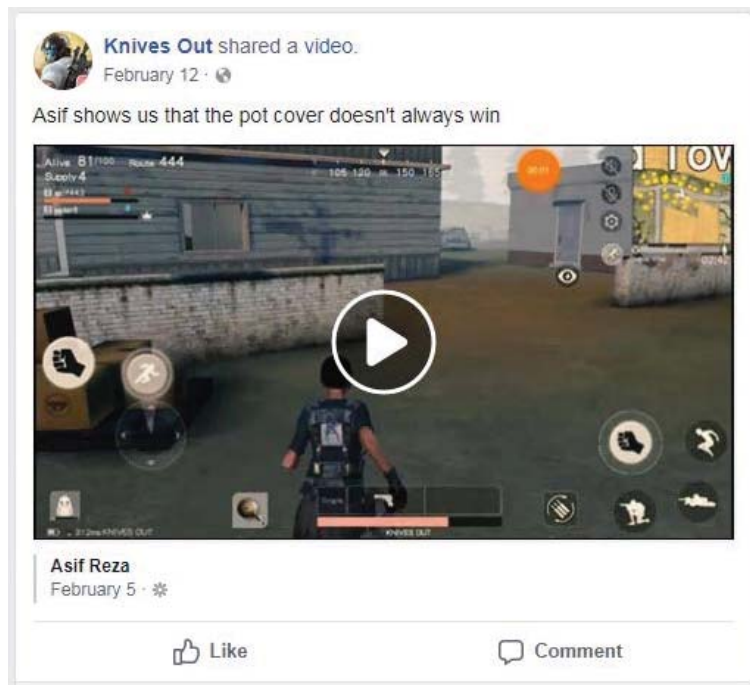




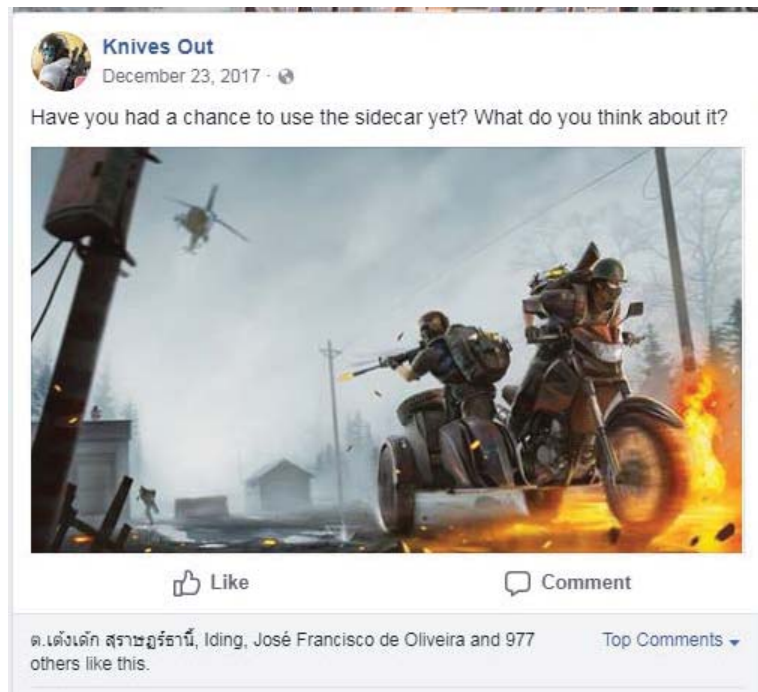
Evocations of “Winner Winner Chicken Dinner” in *KO* Advertising

Advertising “Pot Lid” as Capable of Deflecting Bullets





"Pot Lid" in KO Advertising

Motorcycle with Sidecar in *KO* Advertising

Motorcycle with Sidecar in BATTLEGROUNDS

PUBG's Efforts to Enforce Its Rights

114. PUBG has attempted to address its dispute with Defendants through other channels besides litigation, but Defendants have refused to acknowledge PUBG's intellectual property rights. For example, PUBG has sought removal of *Rules of Survival* and *Knives Out* from the Apple App

1 Store distribution platforms, putting Defendants on notice of their misappropriation of PUBG's
2 copyrights and trade dress.

3 115. **Apple App Store.** On or about January 24, 2018, representatives of Plaintiff PUBG
4 Corporation submitted a complaint to Apple explaining that the app *Rules of Survival* and the app
5 *Knives Out*, both offered by NetEase Games in the Apple App Store, infringe the copyrights in
6 PUBG Corporation's online game *PLAYERUNKNOWN'S BATTLEGROUNDS*. On or about
7 January 31, 2018, a representative of Apple provided notice of that complaint to representatives of
8 NetEase Games.

9 116. After receiving notice of PUBG's copyright infringement allegations, NetEase
10 refused to remove or modify the accused games and knowingly persisted in its infringement. On or
11 about January 31, 2018, a representative of NetEase Games responded to Apple and PUBG
12 Corporation, denying that *Rules of Survival* and *Knives Out* infringe PUBG Corporation's rights.
13 The parties exchanged emails but made no progress toward resolving the dispute.

14 117. Once it became apparent that NetEase was unwilling to acknowledge PUBG's
15 intellectual property rights, PUBG determined that legal action would be necessary to enforce its
16 rights. On or about February 14, 2018, a representative of PUBG Corporation emailed NetEase
17 Games and Apple stating, "Since it is very clear that NetEase Games disagrees with PUBG
18 Corporation's claims, PUBG Corporation has decided to take legal actions against NetEase Games."
19 On or about February 15, 2018, a representative of NetEase Games responded to PUBG Corporation
20 and Apple, asking Apple "to withdraw this case until any valid judgements are received." Thus,
21 after receiving repeated notice, NetEase continued to willfully infringe PUBG's rights.

22 CLAIMS FOR RELIEF

23 FIRST CLAIM FOR RELIEF 24 (COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. § 101 et seq.)

25 118. PUBG repeats and realleges each and every allegation contained in paragraphs 1
26 through 117.

27 119. The PC game *BATTLEGROUNDS* is an original work of authorship and constitutes

1 copyrightable subject matter under the copyright laws of the United States. PUBG owns, and at all
2 relevant times has owned, the copyright in BATTLEGROUND. The deposit, application, and fee
3 required for registration of the copyright have been delivered to the Copyright Office in proper form.

4 120. Among the exclusive rights granted to PUBG under the Copyright Act are the
5 exclusive rights to reproduce BATTLEGROUND and its copyrightable components, to prepare
6 derivative works based upon BATTLEGROUND and its copyrightable components, and to
7 publicly display, perform, distribute, and sell BATTLEGROUND and its copyrightable
8 components and such reproductions or derivative works based upon BATTLEGROUND or its
9 copyrightable components.

10 121. By developing each version of *ROS* and *KO*, Defendants have created or caused to be
11 created reproductions of BATTLEGROUND and its copyrightable components and/or derivative
12 works based upon BATTLEGROUND or its copyrightable components, all of which are
13 substantially similar in visual appearance and/or audio sound to PUBG's original work, without
14 authorization from Plaintiff. Such actions infringe PUBG's exclusive copyrights in
15 BATTLEGROUND and its copyrightable components, in violation of 17 U.S.C. §§ 106(1) and
16 106(2).

17 122. By releasing each version of *ROS* and *KO*, Defendants have publicly displayed,
18 performed, distributed, sold, and/or offered to distribute or sell unauthorized reproductions of and/or
19 derivative works based upon BATTLEGROUND and/or its copyrightable components without
20 authorization from Plaintiff. Such actions infringe PUBG's exclusive copyrights in
21 BATTLEGROUND and its copyrightable components, in violation of 17 U.S.C. §§ 106(3), 106(4),
22 106(5), and 106(6).

23 123. On information and belief, Defendants' acts of infringement have been and continue
24 to be willful, intentional, knowing, and purposeful, in disregard of and indifferent to PUBG's rights.

25 124. As a direct and proximate result of Defendants' infringing conduct, Defendants have
26 derived benefit and have caused PUBG both monetary and non-monetary damage.

27 125. PUBG is entitled to an injunction restraining Defendants from engaging in any further
28

1 acts in violation of the United States and California copyright and trade dress laws. PUBG has
2 suffered irreparable harm as a result of Defendants' infringing activities and will continue to suffer
3 irreparable harm in the future unless Defendants are enjoined from their infringing conduct.

4 **SECOND CLAIM FOR RELIEF**
5 **(TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1125(a))**

6 126. PUBG repeats and realleges each and every allegation contained in paragraphs 1
7 through 125.

8 127. The total image and overall audiovisual appearance of PUBG's BATTLEGROUNDS
9 game has acquired distinctiveness through secondary meaning which identifies its source and which
10 distinguishes it from the products of others. Consumers widely associate the total image and overall
11 audiovisual appearance as well as the distinctive elements and combination of elements uniquely
12 with PUBG. To take just a few of the examples identified above, the use of cookware as a weapon
13 or armor in a shooter game, the use of certain vehicles and landscapes and combinations thereof, the
14 use of distinctive supply boxes and the celebratory reference to chicken are elements of ornamental
15 flair that are not functional but have acquired secondary meaning, as shown by their use by players
16 in memes, parodies, skits and other contexts to refer to the BATTLEGROUNDS game and to its
17 developer, *i.e.*, PUBG.

18 128. Because each version of Defendants' *ROS* and *KO* games mimic the total image and
19 overall audiovisual appearance of PUBG's BATTLEGROUNDS game as well as distinctive
20 elements and combinations of elements within PUBG's BATTLEGROUNDS game and because
21 Defendants have specifically advertised and marketed both *ROS* and *KO* using these elements and
22 combinations of elements, there is a likelihood of consumer confusion regarding the origin of
23 Defendants' *ROS* and *KO* games, including whether they were developed by PUBG, are associated
24 with PUBG or PUBG's BATTLEGROUNDS game or were sponsored and/or approved by PUBG.
25 Defendants' use has and continues to impair the distinctiveness of PUBG's trade dress. Defendants'
26 distribution of such a confusingly similar game infringes PUBG's exclusive rights in the trade dress
27 of BATTLEGROUNDS, in violation of 15 U.S.C. § 1125(a)(1)(A).

129. On information and belief, Defendants' acts of infringement have been and continue to be willful, intentional, knowing, and purposeful, in disregard of and indifferent to PUBG's rights.

130. As a direct and proximate result of Defendants' infringing conduct, Defendants have derived benefit and have caused PUBG both monetary and non-monetary damage.

131. PUBG has suffered irreparable harm as a result of Defendants' infringing activities and will continue to suffer irreparable harm in the future unless Defendants are enjoined from their infringing conduct.

THIRD CLAIM FOR RELIEF
(UNFAIR COMPETITION UNDER CAL. BUS. & PROF. CODE § 17200)

132. PUBG repeats and realleges each and every allegation contained in paragraphs 1 through 131.

133. Defendants have committed unlawful, unfair, and/or fraudulent business acts by copying PUBG's BATTLEGROUNDS game in each version of their *ROS* and *KO* games and introducing the *ROS* and *KO* games to the marketplace at or below cost. This act was intended to injure PUBG and has injured PUBG by unfairly using PUBG's own development efforts and consumer goodwill to capture mobile gaming market share before PUBG launched its own mobile version of BATTLEGROUNDS, in violation of Cal. Bus. & Prof. Code § 17200.

134. On information and belief, Defendants' unlawful, unfair, and/or fraudulent business acts have been and continue to be willful, intentional, knowing, and purposeful, in disregard of and indifferent to PUBG's rights.

135. As a direct and proximate result of Defendants' unlawful, unfair, and/or fraudulent business conduct, Defendants have derived benefit and have caused PUBG both monetary and non-monetary damage.

136. PUBG has suffered irreparable harm because of Defendants' unlawful, unfair, and/or fraudulent business conduct and will continue to suffer irreparable harm in the future unless Defendants are enjoined from their unlawful, unfair, and/or fraudulent business conduct.

FOURTH CLAIM FOR RELIEF
(UNFAIR COMPETITION UNDER THE COMMON LAW OF THE STATE OF CALIFORNIA)

137. PUBG repeats and realleges each and every allegation contained in paragraphs 1 through 136.

138. Defendants have committed unlawful, unfair, and/or fraudulent business acts by copying PUBG's BATTLEGROUNDS game in each version of their *ROS* and *KO* games and introducing the *ROS* and *KO* games to the marketplace at or below cost. This act was intended to injure PUBG and has injured PUBG by unfairly using PUBG's own development efforts and consumer goodwill to capture mobile gaming market share before PUBG launched its own mobile version of BATTLEGROUNDS, in violation of the common law of the State of California.

139. On information and belief, Defendants' unlawful, unfair, and/or fraudulent business acts have been and continue to be willful, intentional, knowing, and purposeful, in disregard of and indifferent to PUBG's rights.

140. As a direct and proximate result of Defendants' unlawful, unfair, and/or fraudulent business conduct, Defendants have derived benefit and have caused PUBG both monetary and non-monetary damage.

141. PUBG has suffered irreparable harm because of Defendants' unlawful, unfair, and/or fraudulent business conduct and will continue to suffer irreparable harm in the future unless Defendants are enjoined from their unlawful, unfair, and/or fraudulent business conduct.

PRAYER FOR RELIEF

142. WHEREFORE, PUBG respectfully requests that the Court:

143. Permanently enjoin Defendants and all other persons or entities who are in active concert or participation with Defendants from continuing to infringe PUBG's copyrighted work, continuing to infringe PUBG's trade dress, and continuing to engage in unlawful, unfair, and/or fraudulent business conduct;

144. Order Defendants to remove each and every version of the games *Rules of Survival*, *Knives Out*, and similarly infringing games, from distribution and to cease developing and

1 supporting those games;

2 145. Award PUBG statutory damages for willful copyright infringement in the amount of
3 \$150,000.00 per infringed work, pursuant to 17 U.S.C. § 504(c), or, in the alternative, at PUBG's
4 election pursuant to 17 U.S.C. § 504(b), PUBG's actual damages and Defendants' profits from
5 infringement, in amounts to be proven at trial;

6 146. Award PUBG statutory damages for unlawful, unfair, and/or fraudulent business
7 conduct in an amount to be determined by multiplying the number of violations found to be
8 committed by \$2,500.00, pursuant to Cal. Bus. & Prof. Code § 17206;

9 147. Award PUBG actual damages in an amount sufficient to at least make PUBG whole
10 from the effects of Defendants' unlawful acts;

11 148. Award PUBG reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505 and
12 15 U.S.C. § 1117(a); and

13 149. Grant PUBG any other and further relief this Court deems just and proper.

14 **DEMAND FOR JURY TRIAL**

15 150. PUBG requests a trial by jury on all issues to which PUBG is entitled to a trial by
16 jury.

17
18 Date: May 24, 2018

By: /s/ Steven S. Baik

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